City of Arvada
City Council Agenda
AUGUST 16, 2021
CITY COUNCIL CHAMBERS
Regular Business

Councilmembers:	**Staff Members Usually Present:**	**Info: 720-898-7550**
Marc Williams, Mayor	**Mark Deven, City Manager**	
Dot Miller, Mayor Pro-Tem	**Lorie Gillis, Deputy City Manager**	
Bob Fifer, At large	**Rachel Morris, City Attorney**	
Nancy Ford, District 1	**Don Wick, Director of Public Works**	
David Jones, District 4	**Sharon Israel, Director of Utilities**	
John Marriott, District 3	**Ryan Stachelski, Dir. of Community & Economic Development**	
Lauren Simpson, District 2	**Bryan Archer, Director of Finance**	
	Rob Smetana, Manager of City Planning & Development	
	Ben Irwin, Chief Communications Manager	
	Kristen Rush, City Clerk	

THIRD FLOOR CONFERENCE ROOM
EXECUTIVE SESSION
5:00 P.M.

Legal Advice, Pursuant to CRS 24-6-402(4)(b) Relating to Denver Water Board and Instructions to Negotiators, Pursuant to CRS 24-6-402(4)(e) Relating to IGA Renewal with Apex

CITY COUNCIL MEETING – CITY COUNCIL CHAMBERS
6:00 PM

1. Call to Order - 6:00 PM

2. Moment of Reflection and Pledge of Allegiance - Councilmember Ford

3. Roll Call of Councilmembers

4. Approval of Minutes
   A. August 2, 2021 City Council Meeting

5. Recognitions and Communications
   A. Recognition of Justin Andrade - Presented by Councilmember Jones

6. Presentations
   A. 2021 Mid-Year Financial Report

7. Public Comment on Issues not Scheduled on Agenda - Three Minute Limit

8. New Business

   A. Consent Agenda

      1. R21-101 A Resolution Authorizing an Agreement By and Between the City of Arvada and LAZ Parking Midwest, LLC in an Amount not to Exceed $258,380.00 in the First Year for Parking Enforcement Services

      2. R21-102 A Resolution Authorizing the Issuance of a Purchase Order in the Amount of $245,887 to Honnen Equipment Co. for the Purchase of One 2021 John Deere 644 P Loader

      3. R21-103 A Resolution Approving the Eighth Amendment to an Employment Agreement By and Between the City of Arvada and Mark G. Deven as City Manager

      4. R21-104 A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Rachel A. Morris as City Attorney

      5. R21-105 A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Kathryn C. Kurtz as Presiding Municipal Court Judge

      6. R21-106 A Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of A Private Activity Bond Allocation of the City of Arvada Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act

   B. Resolutions

      1. R21-107, A Resolution Authorizing Intergovernmental Agreements by and between the City of Arvada and the Counties of Adams and Jefferson for the Regular Municipal Election on November 2, 2021.

      2. R21-108 A Resolution Authorizing a Second Amendment to the Intergovernmental Agreement Between the City of Arvada and the Arvada Urban Renewal Authority

      3. R21-109 A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and the U.S. Department of Housing and Urban Development for Community Development Block Grant Funding In the Amount of $455,945.00

   C. Ordinances (First Reading)

      1. CB21-029, A Ordinance Repealing Chapter 10, Amusements and Entertainment, of the Arvada City Code (Public Hearing to be set for September 13, 2021 at 6:15 p.m.)

9. Other

10. Public Hearings - 6:15 PM

   A. CB21-020 An Ordinance Amending Chapter 54, Motor Vehicles and Traffic, of the Arvada City Code (Ordinance No. 4772)

   B. CB21-026 An Ordinance Enacting and Amending Certain Provisions of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code to Prohibit Persons Under the Age of 21 From Entering Smoking Businesses, to Prohibit the Sale or Distribution of Tobacco Products to Persons Under the Age of 21, and to Prohibit Self Service Displays of Tobacco Products (Ordinance No. 4773)

   C. CB21-027 An Ordinance Repealing and Reenacting Chapter 82, Purchasing and Contracts, of the Arvada City Code (Ordinance No. 4774)

   D. CB21-028, An Ordinance Submitting Proposed Amendments to Sections 4.3, 4.6, 5.13 and 5.14 of the Charter for the City of Arvada to the Registered Electors at the November 2, 2021 Regular Municipal Election and Setting Ballot Titles (Ordinance No. 4775)

11. Public Comment - Five Minute Limit

12. Reports from City Council

A. Council Committee Reports

13. Reports from City Manager

A. Review of Future Workshops and Presentations

14. Reports from City Attorney

15. Adjournment

CITY OF ARVADA

SUMMARY OF MINUTES OF THE MEETING OF THE ARVADA CITY COUNCIL HELD AUGUST 2, 2021

1. Call to Order - 6:00 p.m.

   This Arvada City Council meeting was held in the City Council Chambers and remotely using webinar technology. Mayor Williams, Mayor Pro Tem Miller, Councilmember Ford, Councilmember Marriott, and Councilmember Simpson were present in the council chambers. Councilmember Jones was present via Zoom. Members of the public were given notice with instructions on how to participate with public comment.

2. Moment of Reflection and Pledge of Allegiance

3. Roll Call of Councilmembers

   Those Present: Mayor Marc Williams, Mayor Pro Tem Dot Miller, Councilmember Nancy Ford, Councilmember David Jones, Councilmember John Marriott, Councilmember Lauren Simpson

   Councilmember Marriott moved to excuse Councilmember Fifer from the meeting.

   The following votes were cast on the Motion
   Those voting yes: Williams, Miller, Ford, Jones, Marriott, Simpson
   Those Absent: Fifer
   The Motion was Approved

   Also Present: Mark Deven, City Manager; Rachel Morris, City Attorney; Lorie Gillis, Deputy City Manager; Ryan Stachelski, Director of Community and Economic Development; Bryan Archer, Director of Finance and Kristen Rush, City Clerk.

4. Approval of Minutes of the July 12 and July 19, 2021 City Council Meeting

   The minutes stand approved.

5. Recognition and Communication - none

6. Presentations –
   A. Presentation of the 2020 External Audit and Financial Statements

   Jody Cates, Managing Member of BKD, the City's auditing firm, gave a brief update on the recently completed audit. Ms. Cates said that all areas received a clean score.

7. Public Comment

A. Nancy Young, Representing the Arvada Historical Society, addressed council regarding National Night Out.

8. New Business

A. Consent Agenda

1. R21-097 A Resolution Authorizing a Change Order No. 2 to an Existing Agreement by and between the City of Arvada and Dewberry Engineers, Inc. to Expand the Scope of Work and Increase the Contract Amount by \$10,138.00, Project No. 18-WA-11

2. R21-098 A Resolution Approving the Submission of a Second Substantial Amendment to the 2020 Annual Action Plan for the Community Development Block Grant (CDBG) Program to Allocate Additional CDBG Funds Made Available Through the Coronavirus Aid, Relief and Economic Security Act (CARES Act)

Councilmember Marriott moved that R21-097, A Resolution Authorizing a Change Order No. 2 to an Existing Agreement by and between the City of Arvada and Dewberry Engineers, Inc. to Expand the Scope of Work and Increase the Contract Amount by \$10,138.00, Project No. 18-WA-11; R21-098, A Resolution Approving the Submission of a Second Substantial Amendment to the 2020 Annual Action Plan for the Community Development Block Grant (CDBG) Program to Allocate Additional CDBG Funds Made Available Through the Coronavirus Aid, Relief and Economic Security Act (CARES Act), be approved.

The following votes were cast on the Motion
Those voting yes: Williams, Miller, Ford, Jones, Marriott, Simpson
Those Absent: Fifer
The Motion was Approved

B. Resolutions –

1. R21-099 A Resolution Authorizing an Amendment to the Grant Agreement Between the City of Arvada and Jefferson County for Emergency Rental Assistance to Increase the Agreement Maximum Amount Reimbursable from \$499,000 to \$1,499,000

Gordon Reusink, Director of Vibrant Communities and Neighborhoods, reviewed this resolution with council.

Councilmember Ford moved that R21-099, A Resolution Authorizing an Amendment to the Grant Agreement Between the City of Arvada and Jefferson County for Emergency Rental Assistance to Increase the Agreement Maximum Amount Reimbursable from \$499,000 to \$1,499,000, be approved.

The following votes were cast on the Motion
Those voting yes: Williams, Miller, Ford, Jones, Marriott, Simpson
Those Absent: Fifer
The Motion was Approved

2. R21-100 A Resolution Amending the City of Arvada's Investment Policy

Bryan Archer, Director of Finance and Chris Blackwood, with PFM Asset Management, reviewed this resolution with council.

Councilmember Simpson moved that R21-100, A Resolution Amending the City of Arvada's Investment Policy, be approved.

The following votes were cast on the Motion
Those voting yes: Williams, Miller, Ford, Jones, Marriott, Simpson
Those Absent: Fifer
The Motion was Approved

C. Ordinances (First Reading)

1. CB21-020 An Ordinance Amending Chapter 54, Motor Vehicles and Traffic, of the Arvada City Code (Public Hearing to be set for August 16, 2021 at 6:15 p.m.)
2. CB21-026 An Ordinance Enacting and Amending Certain Provisions of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code to Prohibit Persons Under the Age of 21 From Entering Smoking Businesses, to Prohibit the Sale or Distribution of Tobacco Products to Persons Under the Age of 21, and to Prohibit Self Service Displays of Tobacco Products (Public Hearing to be set for August 16, 2021 at 6:15 p.m.)
3. CB21-027 An Ordinance Repealing and Reenacting Chapter 82, Purchasing and Contracts, of the Arvada City Code (Public Hearing to be set for August 16, 2021 at 6:15 p.m.)
4. CB21-028 An Ordinance Submitting Proposed Amendments to Sections 4.3, 4.6, 5.13 and 5.14 of the Charter for the City of Arvada to the Registered Electors at the November 2, 2021 Regular Municipal Election and Setting Ballot Titles (Public Hearing to be set for August 16, 2021 at 6:15 p.m.)

Mayor Pro Tem Miller moved that CB21-020, An Ordinance Amending Chapter 54, Motor Vehicles and Traffic, of the Arvada City; CB21-026, An Ordinance Enacting and Amending Certain Provisions of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code to Prohibit Persons Under the Age of 21 From Entering Smoking Businesses, to Prohibit the Sale or Distribution of Tobacco Products to Persons Under the Age of 21, and to Prohibit Self Service Displays of Tobacco Products; CB21-027, An Ordinance Repealing and Reenacting Chapter 82, Purchasing and Contracts, of the Arvada City Code; CB21-028, An Ordinance Submitting Proposed Amendments to Sections 4.3, 4.6, 5.13 and 5.14 of the Charter for the City of Arvada to the Registered Electors at the November 2, 2021 Regular Municipal Election and Setting Ballot Titles, be approved on first reading, ordered published in full, and a public hearing set for August 16, 2021 at 6:15 p.m.

The following votes were cast on the Motion
Those voting yes: Williams, Miller, Ford, Jones, Marriott, Simpson
Those Absent: Fifer
The Motion was Approved

10. Other –
A. Appointment to the Olde Town Arvada Business Improvement District Board

Councilmember Marriott moved to appoint Brandon Capps to the Olde Town Arvada Business Improvement District Board for a three year term ending April 30, 2024.

The following votes were cast on the Motion
Those voting yes: Williams, Miller, Ford, Jones, Marriott, Simpson
Those Absent: Fifer
The Motion was Approved

11. Public Hearings

A. CB21-025 An Ordinance Authorizing an Additional Appropriation to the Community Development Fund for Fiscal Year 2021 (Ordinance No. 4771)

Mayor Williams opened the public hearing for CB21-025.

Gordon Reusink, Director of Vibrant Communities and Neighborhoods, reviewed this ordinance with council.

No one wishing to speak for or against, the public hearing was closed.

Councilmember Ford moved that CB21-025, An Ordinance Authorizing an Additional Appropriation to the Community Development Fund for Fiscal Year 2021, be approved on final reading, numbered 4771 and ordered published by title only.

The following votes were cast on the Motion
Those voting yes: Williams, Miller, Ford, Jones, Marriott, Simpson
Those Absent: Fifer
The Motion was Approved

12. Public Comment - Five Minute Limit - none

13. City Council Reports
A. Councilmember Marriott noted the passing of city employee Joe Herrin.

14. City Manager Reports - none

15. City Attorney Reports – none

16. Adjournment at 6:45 p.m.

____
Marc Williams, Mayor

SEAL:

____
Kristen R. Rush, City Clerk

CITY OF ARVADA

REPORT TO CITY COUNCIL	AGENDA ITEM 5.A.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: Recognition of Justin Andrade - Presented by Councilmember Jones

Report in Brief

Tonight we will be recognizing Justin Andrade, a graduate of A-West and Adams State University in Alamosa, Colorado. Justin, who ran cross country and track for Adams State, decided to embark on a journey in memory of his friend Cameron Holland. Cameron died in a car accident in Arvada on December 7, 2019 at the age of 17. He was a high school senior just five months away from graduation. Justin and Cameron had been friends since elementary school. Shortly following his death Cameron's family decided to start the Cameron Holland Scholarship and asked for donations in lieu of flowers. In the spring of 2020, the family partnered with The Denver Foundation to administer the Scholarship.

Following Justin's graduation from Adams State, he decided to embark on a journey in memory of his friend by running 280 miles over seven days, from Alamosa to his home in Arvada to raise money for the Scholarship Fund.

He set out from Alamosa on Memorial Day, May 31, and arrived home in Arvada the following Sunday, June 6 averaging 40 miles per day, refueling with one candy bar and one bottle of water per hour. From Alamosa, Justin ran over La Veta pass (elevation 9,426′) in the Sangre de Cristo Mountains of south-central Colorado to Walsenburg, Colorado. Heading north from there he passed through Colorado City, Pueblo, Colorado Springs, Monument, and Sedalia before reaching the Denver Metro area to complete the final legs of his journey through Littleton, Lakewood, and into Arvada. Staying with friends along the way, Justin would go to bed at 7 p.m. each night, waking at 4:30 a.m. each day to beat the heat. Some days he ran long stretches alone while other days he had support from other runners, bikers, or friends driving along the route.

Upon his return, Justin was welcomed by family, friends, and the community as he ran the home stretch along the Ralston Creek Trail to Cameron's roadside memorial sign near W. 72nd Avenue and Indiana.

Justin raised over $7,000 for his ultra- marathon-like efforts, with another $3,300 pledged for the Cameron Holland Scholarship Fund. Cameron's family deeply appreciates the donations and is in awe of Justin's determination and strength to run nearly 300 miles across the ranging Colorado landscape to raise funds for the Scholarship.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:
Toni Riebschlager, Law Office Administrator 7/28/2021

Approved by:

Rachel Morris, City Attorney	7/29/2021
Lorie Gillis, Deputy City Manager	8/3/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

presented to

JUSTIN ANDRADE

In recognition of your 280 mile run from Alamosa to Arvada to benefit the Cameron Holland Scholarship Fund

Presented this 16th day of August, 2021

Marc Williams, Mayor

Dot Miller, Mayor Pro Tem

Bob Fifer, Councilmember

Nancy Ford, Councilmember

David Jones, Councilmember

John Marriott, Councilmember

Lauren Simpson, Councilmember

CITY OF ARVADA

REPORT TO CITY COUNCIL OTHER	AGENDA ITEM 6.A.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: 2021 Mid-Year Financial Report

Report in Brief

The Finance team will present the mid-year financial report. This will include updates on specific performance measures, an overview of the major revenue categories in the General Fund, a high level look at the other major funds, a review of the City's investment portfolio and finally a preliminary look at the American Rescue Plan funds.

Financial Impact

N/A

Background

The purpose of the City Council Budget and Fiscal Policy is to guide City budget and financial management decisions based on strategic planning, performance measures, long-term financial stability, delivery of basic City services and protection of past and future investments in the City's infrastructure and facilities. The financial update is presented quarterly to help support this policy.

Discussion

N/A

Public Contact

N/A

Commission Recommendation

N/A

Strategic Alignment

This presentation aligns with the Organizational and Service Effectiveness principle : *Provides a well-managed, fiscally responsible government that operates effectively and efficiently while identifying revenue requirements to sustain current service levels and achieve future requested levels of service.*

Alternative Courses of Action

N/A

Recommendation for Action

N/A

Suggested Motion:

N/A

Prepared by:
Bryan Archer, Director of Finance

Reviewed by:

Approved by:

Jenna Belec, Executive Assistant	7/30/2021
Lisa Yagi, Assistant Finance Director	7/30/2021
Bryan Archer, Director of Finance	7/30/2021
Gail Walker, Legal Specialist-Contracts	7/30/2021
Kylie Justus, Assistant City Attorney	7/30/2021
Rachel Morris, City Attorney	8/3/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

2021 Second Quarter Financial Report (Unaudited)

City Council

August 16, 2021

OVERVIEW

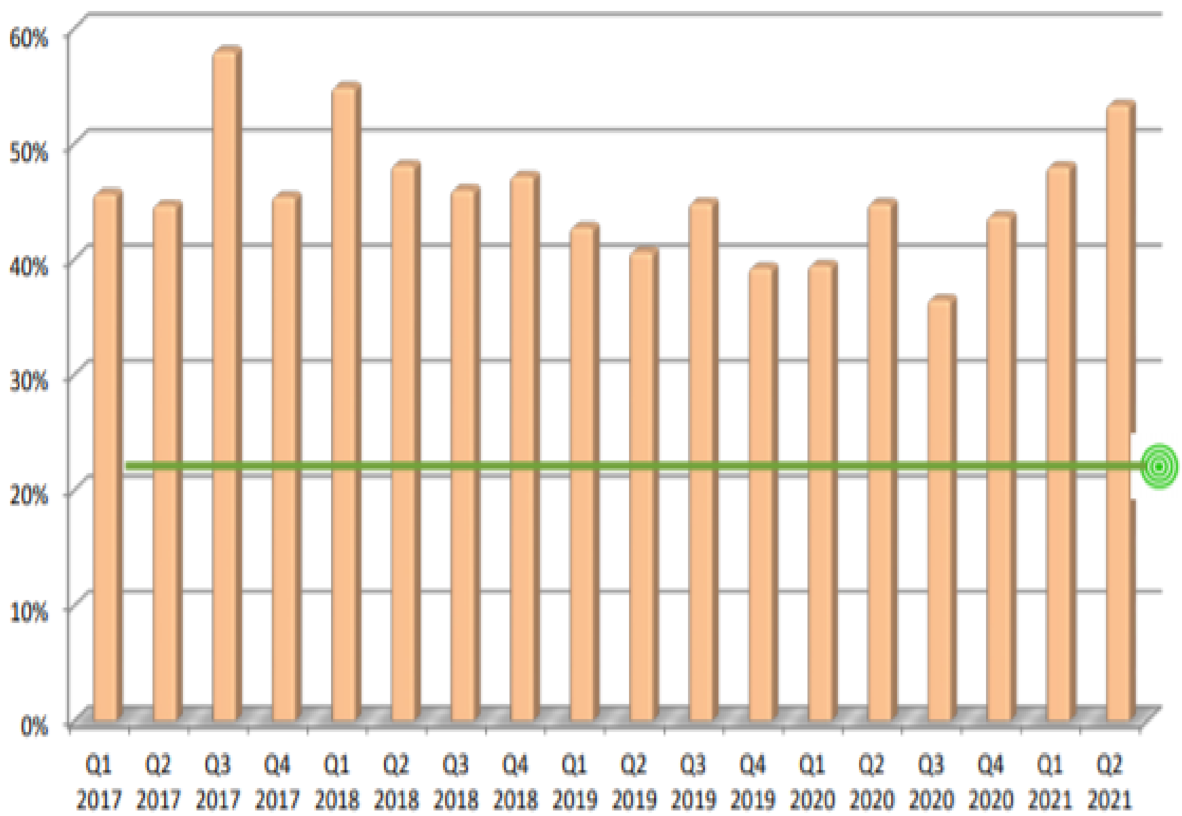
- Revenues are trending positive
- Expenditures are in line with budgets
- ARPA funds allocation process under way
- COVID-19 ongoing challenge

PERFORMANCE

FOCUS

FOCUS ARVADA
Council Strategic Result

GENERAL FUND ENDING FUND BALANCE BY QUARTER COMPARED TO FUND BALANCE GOAL OF 17% OF BUDGETED EXPENDITURES



We Dream Big and Deliver

PERFORMANCE

FOCUS

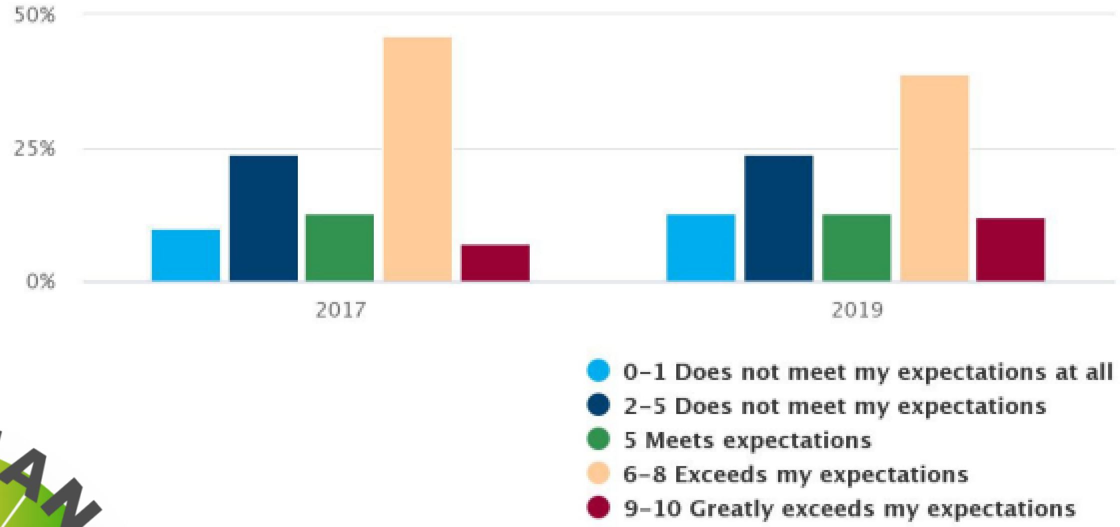
INFRASTRUCTURE

FOCUS ARVADA Council Strategic Result

BY 12/25, EFFECTIVELY UTILIZE VOTER APPROVED BOND FUNDS FOR THE COMPLETION OF RALSTON ROAD PHASE 2 AND THE EXPANSION OF 72ND AVENUE

By 3/22, 85% of bond funds will be expended	11/30/18-3/31/22
By 12/24, the required 5-year bond arbitrage calculation will be completed on time	8/12/19-12/31/24

COMMUNITY SURVEY: TRAFFIC SIGNAL TIMING



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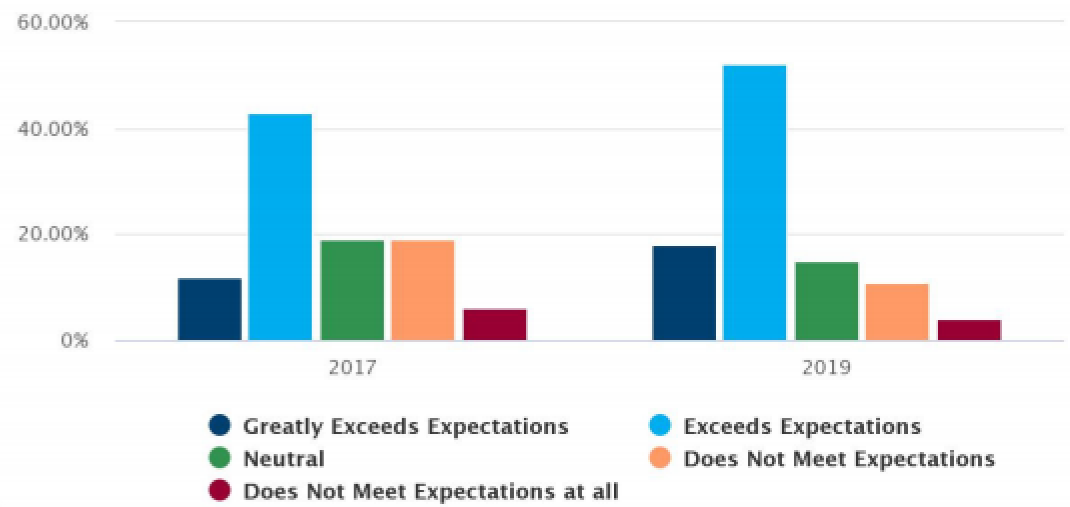
PERFORMANCE

ORGANIZATIONAL AND SERVICE EFFECTIVENESS

BY 6/21, IMPLEMENT A COMPREHENSIVE CITY COMMUNICATIONS AND ENGAGEMENT STRATEGY

By 01/20, complete the overarching communications and engagement strategy	Completed 2/9/21
By 12/20, implement external communications and engagement plans and an internal communication plan	Completed 2/9/21
By 6/21, collaborate with key City partners to develop a comprehensive marketing plan for Arvada	12/2/19-6/30/21
By 6/21, develop a marketing plan highlighting City successes, presents information using engaging content and uses shared partner messaging	2/1/20-6/30/21

SEEKING RESIDENTS INVOLVEMENT AND INPUT



GENERAL FUND OVERVIEW

GENERAL FUND	YEAR TO DATE
Property Tax	POSITIVE
Sales Tax	POSITIVE
Auto Use Tax	POSITIVE
General Use Tax	POSITIVE
Court Revenues	NEGATIVE
Building Revenues	POSITIVE
Interest Revenue	POSITIVE

Personnel Expenditures	POSITIVE
Other Expenditures	POSITIVE

PERFORMANCE - ACTUALS VS. BUDGET

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SALES TAX

SALES TAX	YEAR TO DATE
Overall	POSITIVE

Supermarket	POSITIVE
Wholesale	POSITIVE
Electronic Shopping	POSITIVE
Hardware Stores	POSITIVE
Full Service Restaurants	POSITIVE
Utilities	POSITIVE
Limited Service Restaurants	POSITIVE
Liquor Store	POSITIVE

22.6% Increase

PERFORMANCE - ACTUALS VS. BUDGET

SALES TAX BY NAICS CODES

Top 70% Sales Tax Generating NAICS Categories

NAICS Code Name	2021	Percentage Change	2020	Percentage Change	2019
SUPERMARKET/OTHER GROCERY	$6,061,185.76	9.35%	$5,543,044.14	13.25%	$4,894,616.12
MERCHANT WHOLESALER	$3,927,867.00	5.17%	$3,734,745.67	16.84%	$3,196,325.63
ELECTRONIC SHOPPING AND MAIL-(	$3,155,769.64	145.61%	$1,284,865.71	49.28%	$860,707.85
HARDWARE STORE	$2,077,949.64	8.10%	$1,922,281.97	6.39%	$1,806,904.59
FULL SERVICE RESTAURANT	$1,921,255.59	27.81%	$1,503,256.26	-23.74%	$1,971,124.40
ELECTRIC POWER/TIDAL	$1,535,464.08	16.81%	$1,314,529.40	-11.80%	$1,490,399.62
LIMITED SERVICE RESTAURANT	$1,087,353.68	20.07%	$905,598.50	0.48%	$901,242.66
BEER/WINE/LIQUOR STORE	$660,342.91	1.31%	$651,824.27	21.88%	$534,805.59

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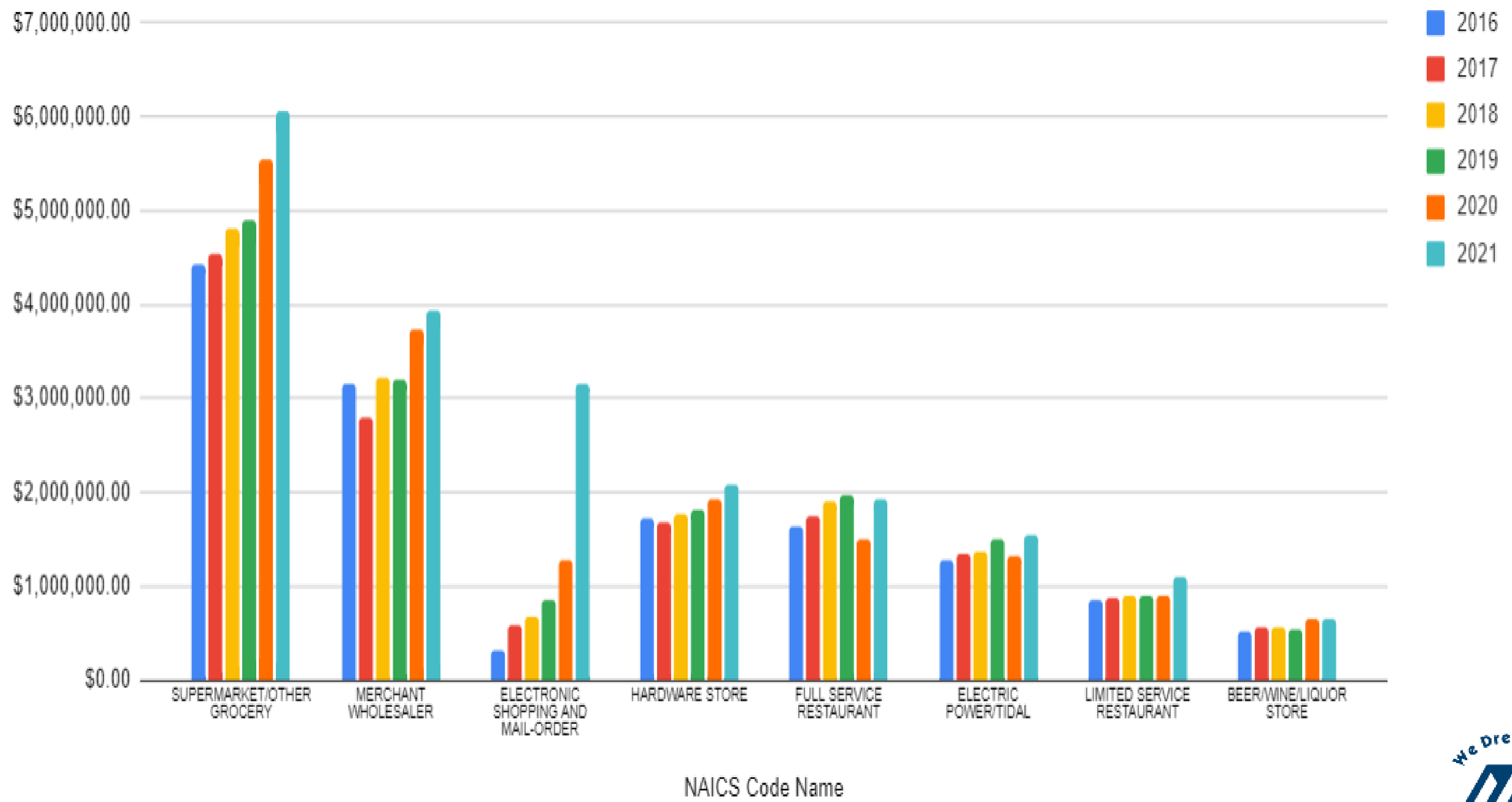
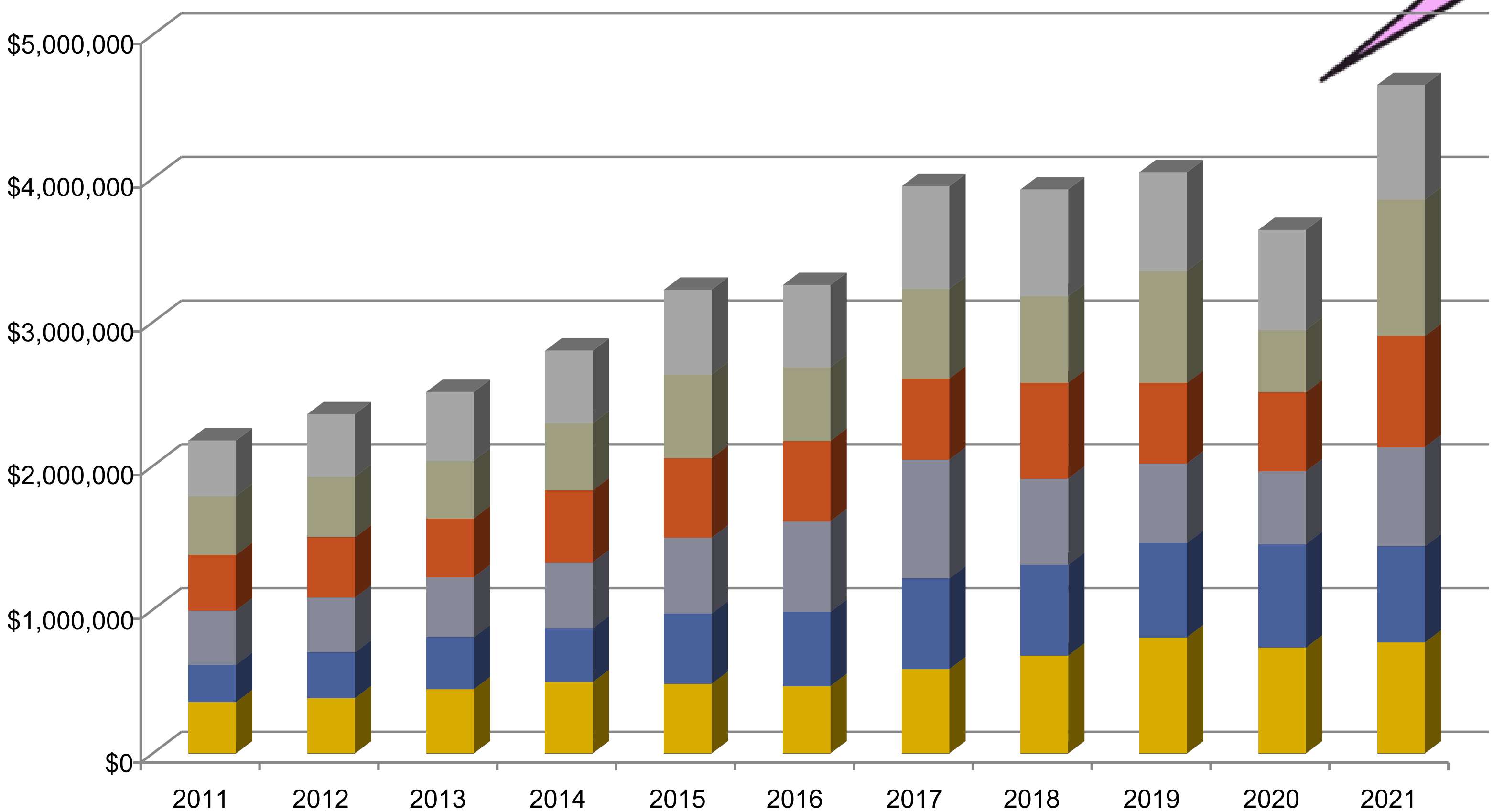
SALES TAX BY NAICS CODES

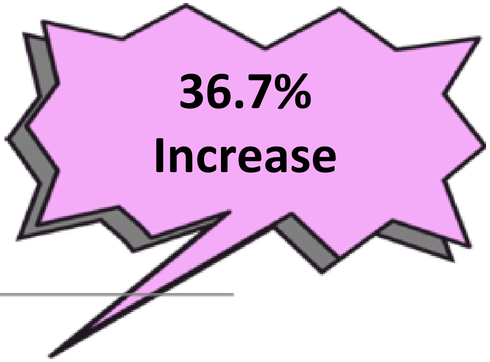


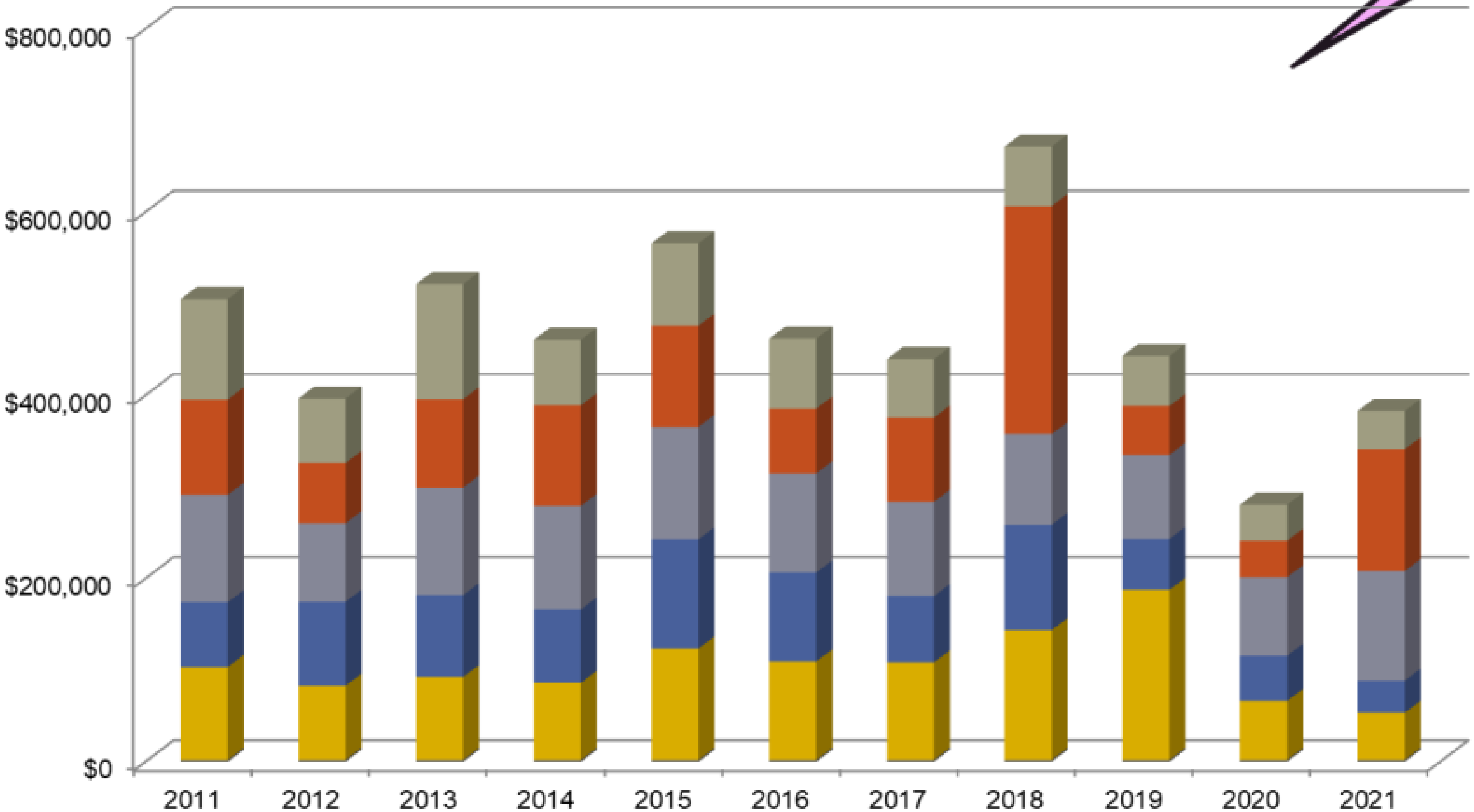
AUTO USE

30.8% increase



GENERAL USE TAX





OTHER FUNDS OVERVIEW

FUND	REVENUES	EXPENDITURES	YEAR TO DATE
Parks	POSITIVE	POSITIVE	POSITIVE
Tax Increment Funds	POSITIVE	POSITIVE	MONITOR
Community Development	POSITIVE	MONITOR	POSITIVE
Arvada Housing	POSITIVE	POSITIVE	MONITOR
Capital Projects	POSITIVE	MONITOR	MONITOR
Water	MONITOR	POSITIVE	MONITOR
Wastewater	MONITOR	POSITIVE	MONITOR
Stormwater	POSITIVE	POSITIVE	POSITIVE
Golf	MONITOR	POSITIVE	WARNING
Risk Management	POSITIVE	POSITIVE	POSITIVE

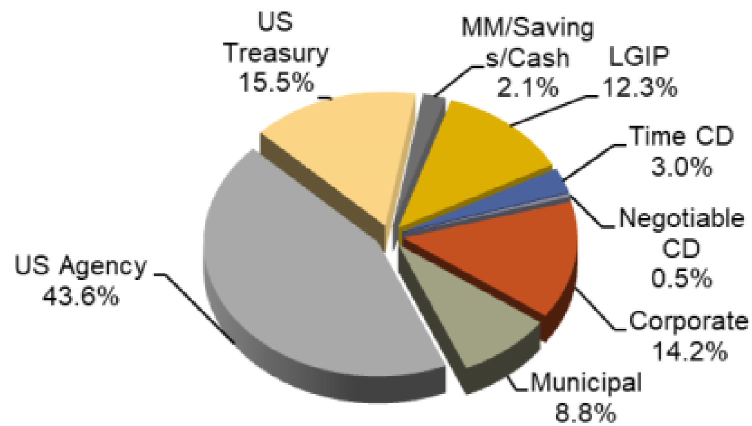
PERFORMANCE - ACTUALS VS. BUDGET

INVESTMENTS

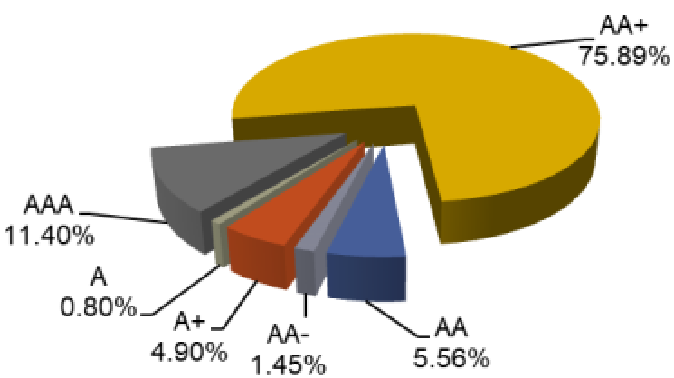
PORTFOLIO PERFORMANCE

	06/30/21	06/30/20	Difference
City Interest Earnings	$ 992,158	$ 1,421,768	$ (429,610)
PFM Interest Earnings	572,375	752,691	(180,316)
Total Interest Earned	$ 1,564,533	$ 2,174,460	$ (609,926)
YTD City Portfolio Yield	1.17%	1.69%	-52 bps
YTD PFM Portfolio Yield	1.45%	2.00%	-55 bps
YTD Benchmark	0.18%	0.96%	-78 bps

CONSOLIDATED PORTFOLIO ALLOCATION



CREDIT QUALITY (S&P RATING)



CONSOLIDATED PORTFOLIO CHANGES

	12/31/20	12/31/19	Difference
MM/Savings/Cash	$ 4,975,991	$ 2,519,937	$ 2,456,055
LGIP	28,936,518	37,886,978	(8,950,460)
Time CD	7,043,909	6,917,150	126,759
Negotiable CD	1,070,000	1,070,000	-
Corporate	33,482,000	39,299,000	(5,817,000)
Municipal	20,680,000	11,830,000	8,850,000
US Agency	102,755,000	100,740,000	2,015,000
US Treasury	36,480,000	31,775,000	4,705,000
Total - Combined	**$ 235,423,418**	**$ 232,038,064**	**$ 3,385,354**

We Dream Big and Deliver

QUESTIONS

CITY OF ARVADA

REPORT TO CITY COUNCIL	AGENDA ITEM 8.A.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: Consent Agenda

Report in Brief

8.A.1. R21-101 A Resolution Authorizing an Agreement By and Between the City of Arvada and LAZ Parking Midwest, LLC in an Amount not to Exceed $258,380.00 in the First Year for Parking Enforcement Services

8.A.2. R21-102 A Resolution Authorizing the Issuance of a Purchase Order in the Amount of $245,887 to Honnen Equipment Co. for the Purchase of One 2021 John Deere 644 P Loader

8.A.3. R21-103 A Resolution Approving the Eighth Amendment to an Employment Agreement By and Between the City of Arvada and Mark G. Deven as City Manager

8.A.4. R21-104 A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Rachel A. Morris as City Attorney

8.A.5. R21-105 A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Kathryn C. Kurtz as Presiding Municipal Court Judge

8.A.6. R21-106 A Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of A Private Activity Bond Allocation of the City of Arvada Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act

Suggested Motion: Moved by: ___________________________________

I move that the Consent Item(s), Number(s) R____________ be (Removed from the Consent Agenda and Heard Upon Item _____________) (Referred to a Workshop) (Postponed Indefinitely).

YES _______ NO ______ ABSENT ______

That All/Remaining Consent Items be (Approved) (Rejected).
YES _______ NO ______ ABSENT ______

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Enclosure, exhibits & attachments required to support the report

CITY OF ARVADA

REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.A.1.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-101 A Resolution Authorizing an Agreement By and Between the City of Arvada and LAZ Parking Midwest, LLC in an Amount not to Exceed $258,380.00 in the First Year for Parking Enforcement Services

Report in Brief

This agreement between the City and LAZ Parking is the product of a Request for Proposals (RFP) process in which an evaluation team from the City chose LAZ Parking over four other contractors to continue managing the parking enforcement and parking ambassador operations in the City at the conclusion of the current contract's term of August 29, 2021. This new contract expands the scope of the current operations to include additional areas throughout the City where certain parking restrictions are in place, bringing the customer-focused operational approach to more of the City's constituents with the flexibility to respond to on-call parking issues and concerns efficiently.

The Arvada team recommends that the City Council approve R21-101, A Resolution Authorizing an Agreement By and Between the City of Arvada and LAZ Parking Midwest, LLC in an Amount not to Exceed $258,380.00 in the First Year for Parking Enforcement Services.

Financial Impact

The costs associated with the recommended action within a five-year period are estimated to grow from $191,703.00 to $258,380.00 with escalation factors. The contract with LAZ is a flat fee for project management and staffing services, while the technology, equipment, and parking app service fees are dependent on operating levels and accounted in the overall costs. These expenses are budgeted through the following operating budgets: 01.701010.55002 (Contracts), 01.701011.54013 (Small Equipment).

Background

Prior to 2016 and the activation of the current contract for parking enforcement, the Arvada Police Department provided enforcement of public parking spaces in our Olde Town District, as well as special or restricted parking zones and areas. Services were performed using license plate reader technology as well as hand chalking tires. This process was predominately on an on-call basis, and therefore did not efficiently or effectively serve the growing needs of the District's visitors, patrons, or businesses. There were simply not enough internal resources to sufficiently enforce the on-street time-limitations and the restricted parking during the full hours they were enacted. Due to the City's focus on customer service and safety, and the desire to provide the efficient services needed to encourage the turnover of public on-street parking spaces to bolster the District's businesses, the City's parking consultants highly recommended the services be outsourced especially as a result of added G-Line Commuter Rail activity.

The City published a Request for Proposals (RFP) to find a contractor capable of performing the operation and meeting the District's parking management and enforcement needs. LAZ Parking Midwest, LLC was selected as the contractor. Following the award, the initial contract was agreed upon by both parties' legal departments, and approved by Arvada City Council. Following the enactment of the contract in late August 2016, the City of Arvada has enlisted professional parking management services through LAZ Parking with a multi-year contract to enforce parking restrictions, limitations and general offenses in the Olde Town Arvada. This contract has a five-year term limit that expires on August 29, 2021.

The new proposed agreement between the City of Arvada and LAZ for parking enforcement services is the product of the City's RFP process. Once the submittal deadline closed, members of the Mobility and Planning Innovations (MPI) team, the Finance Department, Arvada Police Department and Community and Economic Development (CED) Department reviewed the five submissions and made a unanimous decision on who would be awarded the contract. Based upon the thoroughness of the proposal, the quality of the content, the Arvada-centric focus of the operations outline, and the promise to not increase their current fixed fees, LAZ Parking Midwest, LLC was selected.

Discussion

It is the recommendation of the MPI division of Public Works that the contract between the City of Arvada and LAZ Parking Midwest, LLC be approved and enacted by August 29, 2021. It is also the recommendation of the evaluation group responsible for evaluating the five contractors that gave proposals in response to the City's published RFP.

The Scope of Work (SOW) of this contract outlines additional services and updated areas of service that better serve the residents and constituents of the City. At the end of 2020 the City's residential permitting program was updated from physical permitting into a fully digital program saving the City time, resources and associated costs. With this digital permitting, those residing within a permit restricted area, such as within a half mile of our high schools and certain public parks, are in control of every aspect of their permits and the associated vehicles. This program was proven to be successful and beneficiary to residents that reside in our Olde Town District over the course of the nearly five years the current contract has been in place. Since it has now been rolled out to the entirety of Arvada to include these additional areas, and that the hardware is already in place on the City-owned enforcement vehicle currently being used for the parking enforcement operations, the SOW for this contract includes additional areas in Arvada neighborhoods. These areas will now benefit in the same fashion that the Olde Town District has for the past five years.

In addition to these specific permit restricted residential areas, the SOW has added flexibility to respond to parking related violations in accordance with our City Code on an on-call basis. LAZ would have the ability to address and respond to these issues efficiently through the utilization of their customer service line accessible through our City website at www.arvada.org/parking. These issues range from parking too close to an intersection, parking in a bike lane, impeding traffic, parking in an ADA space without proper identification, etc. The SOW would also allow LAZ, as a representative of the City, to issue citations to violations witnessed en route to either the on-call issues or the regularly patrolled permit restricted residential areas. An operational plan has been developed to be used as a proactive approach to parking management.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

Discussion of the proposed agreement aligns with the Infrastructure Priority Area of the City Council Strategic Plan. Specifically, partnering with RTD and the efficient and sustainable operation of parking assets was established in the 2014-2019 City Council Strategic Plan (CCSP) and remains in the 2020-2025 CCSP. Therefore, the proposed action supports the following Principle within the Infrastructure Priority Area:

Offers services focused on safe and environmentally efficient City facilities and fleet vehicles to ensure the most efficient and maximize usage of valued assets.

In addition, the partnership between the public and private sectors also aligns to the Organizational and Service Effectiveness

Priority Area and specifically supports the following Principles:

Maintains appropriate staffing levels, collaborative communications, information technology and financial management support, as well as, leadership services to all work systems to achieve strategic and operational results.

Leverages technology, and benchmarks to guide decisions, improve results, enhance service delivery, and maintain the highest level of data security in support of City effectiveness, now and into the future.

Alternative Courses of Action

The alternative to the adoption of this contract is the City would have no parking enforcement or parking ambassador services not only rolled out to the new digital residential permit restricted areas, but also within the Olde Town District where the operations currently patrol. This would put the responsibility of enforcement back on the Arvada Police Department.

Recommendation for Action

The Arvada team recommends that the City Council approve CB21-101, A Resolution Authorizing an Agreement By and Between the City of Arvada and LAZ Parking Midwest, LLC in an Amount not to Exceed $258,380.00 in the First Year for Parking Enforcement Services.

Suggested Motion:

I move that CB21-101, A Resolution Authorizing an Agreement By and Between the City of Arvada and LAZ Parking Midwest, LLC in an Amount not to Exceed $258,380.00 in the First Year for Parking Enforcement Services, be (approved) (rejected).

Prepared by:
Derek Fern, Parking and Travel Demand Management Coordinator

Reviewed by:

Approved by:

John Firouzi, Senior Transportation Planner	7/18/2021
Don Wick, Director of Public Works	7/19/2021
Bryan Archer, Director of Finance	7/19/2021
Tammy Hedlund, Legal Specialist	7/20/2021
Erika Pierce, Litigation Paralegal	7/20/2021
Kelsy Sargent, Assistant City Attorney	7/20/2021
Rachel Morris, City Attorney	7/22/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-101

A RESOLUTION AUTHORIZING AN AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND LAZ PARKING MIDWEST, LLC IN AN AMOUNT NOT TO EXCEED $258,380.00 IN THE FIRST YEAR FOR PARKING ENFORCEMENT SERVICES

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in form approved by the City Attorney, an Agreement, which is in substantially the same form as that attached hereto, by and between the City of Arvada and Laz Parking Midwest LLC. in the amount of $258,380.00.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: ______________________________________

AN AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND LAZ PARKING MIDWEST, LLC IN AN AMOUNT NOT TO EXCEED $258,380.00 IN THE FIRST YEAR FOR PARKING ENFORCEMENT SERVICES

1. **PARTIES.** The parties to this Agreement are the City of Arvada, a Colorado home rule municipal corporation, whose mailing address is 8101 Ralston Road, Arvada, CO 80002 ("Arvada") and LAZ Parking Midwest, LCC ("LAZ"), a Limited Liability Company authorized to do business in Colorado, whose address is 1899 Wynkoop Street, Suite 375, Denver, Colorado 80202 collectively referred to as ("the Parties").

2. **RECITALS AND PURPOSE.**

   2.1. Arvada requires a qualified entity to provide parking operations, enforcement, and management services in the Olde Town Arvada area.

   2.2. On or about April 21, 2021 Arvada administered a Request for Proposal seeking responses from qualified entities to provide services as described in Sec. 2.1 ("the Work").

   2.3. LAZ has extensive experience in operating municipal parking facilities and on-street parking programs for federal, state, and local government agencies. On or about May 11, 2021, LAZ submitted its proposal to Arvada's RFP ("Proposal").

   2.4. Arvada has reviewed the Proposal and finds that that LAZ has the requisite background, skill, expertise, and insurance to provide the requested services and other related services, under the terms and conditions more fully set forth below.

   2.5. Arvada and LAZ acknowledge and agree that Arvada contemplates using LAZ as a contractor for the Work as described in the Contract Documents. However, Arvada and LAZ acknowledge and agree that Arvada may, at its own discretion, use other contractors to perform similar services, and that this Agreement in no way limits Arvada from hiring other advisors or constitutes a contract for exclusive services from LAZ.

3. **CONTRACT DOCUMENTS AND EXHIBITS.** The Contract Documents shall consist of this Agreement together with the following:

   Exhibit 1: Arvada's RFP-21-Parking Enforcement issued on April 21, 2021;

   Exhibit 2: LAZ's Proposal dated May 11, 2021;

   All exhibits referred to in this Agreement are attached hereto and are, by reference, incorporated herein for all purposes. In the event any matter, term, provision, or condition that is the subject of this Agreement requires clarification or is in dispute, or is the subject of a difference of opinion, the purpose and intent of the Agreement shall be first ascertained by reference to the Contract Documents in their entirety. In the event of any dispute or differences between the respective documents that constitute the Contract Documents, then LAZ shall secure written instructions from Arvada before proceeding with the performance of the services affected by such conflicts, omissions, or discrepancies.

4. **SCOPE OF SERVICES.** LAZ shall perform the Work as described in the Contract Documents or as amended by mutual consent of the Parties in writing. Should the Parties agree in writing to a change in the scope of services, then the parties will timely execute any applicable Change Order, which will address necessary start and end dates, any applicable deliverables and associated due dates, reporting requirements, documentation requirements, and any other matters that the Parties deem necessary.

   4.1. TYPES OF VIOLATIONS. LAZ shall have the authority to enforce the following types of parking violations as may be amended by the Parties:

   - Arvada City Code § 54-50 (1213) – Parking Vehicle for Sale on Private Property;
   - Arvada City Code § 54-155 – Timed Parking Limitations;
   - Arvada City Code § 54-156 – Parking on Private Property;
   - Arvada City Code § 54-157 – Payment of Parking Fee Required;
   - Arvada City Code § 54-173 – Parking of Large Vehicles in Residential Districts;
   - Arvada City Code § 54-174 – Parking of Recreational Vehicles;
   - Arvada City Code § 54-175 – Parking Vehicles of Sale upon Private Property;
   - Arvada City Code § 54-176 – Parking in Space Required;
   - Arvada City Code § 54-243 – Parking Permit Required;
   - Model Traffic Code § 1203 – Parking in Fire Lane
   - Model Traffic Code § 1204 – Stopping, Standing, or Parking Prohibited;
   - Model Traffic Code § 1205 – Parking at Curb or Edge of Roadway;
   - Model Traffic Code § 1206 – Unattended Motor Vehicle; and
   - Model Traffic Code § 1208 – Handicap Parking.

   4.2. LAZ shall use its own judgment when determining whether to issue summonses or citations for parking violations outlined in Section 4.1 in accordance with instruction from Arvada's Project Manager.

   4.3. The Parties agree and understand that ongoing development, redevelopment, and roadway allocation within the Olde Town area may add future inventory in the form of residential permits for the neighborhoods surrounding Olde Town as well as pay parking if demand requires without an increase in cost.

   4.4. For any additional equipment, LAZ shall provide Arvada a detailed cost estimate of the anticipated actual cost of the requested equipment and payment terms for Arvada to review, and if acceptable, issue an authorization. LAZ will not proceed with the purchase of any additional equipment until Arvada has provided a written acceptance of LAZ's estimate and written authorization to proceed with the purchase of additional equipment.

   4.5. CAPEX. During the term of this Agreement, in the event that LAZ shall purchase and finance equipment at the direction of and for the benefit of Arvada, then in such even the cost of such equipment and installation shall be amortized over the remaining term of this Agreement. In the event that this Agreement is terminated prior to the end of the term, then Arvada shall pay to LAZ a sum of money equal to the number of months remaining until the end of the term multiplied by the amount of the monthly amortization payment amount. LAZ attests that at any time under this Agreement, any and all capital equipment purchase and installed for the benefit of Arvada will be of non-proprietary nature to LAZ.

5. **TERM.**

5.1. This Agreement will become effective and binding on all parties upon Arvada's execution of the Agreement, which will occur within a reasonable time following Arvada's receipt of the executed Agreement from LAZ.

5.2. The term of the Agreement shall be for **one** year from Arvada's execution of the Agreement as described in Sec. 5.1, unless otherwise agreed to in writing by the parties, subject to availability of funds, or Arvada's termination for convenience under Sec. 18 of the RFP General Terms and Conditions, Exhibit 1.

5.3. This Agreement may be renewed for **four** consecutive one year terms, and the renewals shall be automatic unless Arvada gives LAZ at least 30 days written notice to terminate the Agreement.

5.4. For any subsequent renewal term, Arvada may, upon review of written request submitted by LAZ before the annual term commences, increase the annual compensation. LAZ's request must include justification and supporting documentation for any such increase. In the event that the parties are unable to agree to the annual compensation then either party may terminate this Agreement upon 30 days prior written notice to the other party.

6. **NO MULTI-YEAR FISCAL OBLIGATION.** LAZ understands that the financial obligations of Arvada payable after the current fiscal year are contingent on funds for that purpose being appropriated, budgeted, and otherwise made available by the City Council for Arvada. Arvada's obligations under the Agreement shall be from year to year only and shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of Arvada within the meaning of Article X, Section 20 of the Colorado Constitution (TABOR).

7. **COMPENSATION.** For performing the Work as described in the Contract Documents, Arvada shall pay to LAZ for the initial term an annual amount not to exceed $258,380.00. The Parties stipulate that of the $258,380.00, the actual compensation paid to LAZ will be a $33,000.00/year fixed management fee and a $1,800.00/year fixed professional services fee with the remaining amount devoted to operational costs.

7.1. For any additional on-demand enforcement services, LAZ shall prove the City a detailed cost estimate of the anticipated actual cost of the requested services for Arvada to review and, if acceptable, issue an authorization. LAZ will not proceed with any additional services until Arvada has provided a written acceptance of LAZ's estimate and written authorization to proceed with the additional services. The additional services would be enacted and invoiced following the service completion, unless otherwise stated and agreed to by the Parties in the Contract Documents.

7.2. The hourly rate for any agreed upon additional on-demand enforcement services shall be those outlined in the Contract Documents.

7.3. LAZ shall provide detailed monthly invoices for the actual services completed to Arvada, and payment from Arvada will be due NET 30 days, unless otherwise stated and agreed to by the Parties in the Contract Documents.

7.4. Notwithstanding anything contained herein to the contrary, in the event that LAZ and Arvada shall incur expenses in connection with the Work that are substantial and unanticipated, the Parties shall negotiate in good faith to modify this Agreement to account for such expenses. In the event the Parties are unable to reach a mutually acceptable modification, then either party shall have the right to terminate this Agreement upon 60 days written notice to the other party.

8. MONTHLY REPORTING. Within 15 days after the end of each month, LAZ shall provide Arvada a monthly report detailing all Operational Costs, Revenue, and Expense Backup amounts obtained by LAZ and any other relevant information reasonably requested by the City for the preceding month, as required in the Contract Documents. LAZ shall keep complete and accurate reports and records relating to this Agreement. Such Records shall be kept in accordance with generally accepted accounting practices. LAZ shall permit the City to inspect LAZ's records at LAZ's local offices during reasonable business hours and at the City's expense. Excluded from the Records available for inspection are any records containing sensitive credit card, proprietary, or confidential information.

9. CITY OWNED EQUIPMENT.

9.1. All equipment owned by Arvada shall remain the property of Arvada, namely:

- Fleet service vehicle T11 (Chevy Bolt);
- Genetec License Plate Reader (LPR) cameras and the accompanying hardware;
- The four Sharp V stationary LPR cameras located within the Transit Hub garage;
- The mobile LPR cameras mounted to the roof of the fleet vehicle and all associated hardware for the mobile system within the vehicle including but not limited to the Tablet and mounting bracket;
- Three T2 Systems Luke II kiosks located within the Transit Hub.

9.2. LAZ will be responsible for the general upkeep and maintenance of the parking enforcement equipment as noted in Section 9.1.

9.3. The vehicle(s) will be provided by Arvada and serviced as necessary and as capabilities allow by Arvada's Fleet Services.

10. REPORTING OF MISSING OR DAMAGED SIGNAGE. Missing or damaged signs observed in the field by enforcement officers are to be called in immediately to the Public Works Director or designee. The type of sign and its exact location are to be included in any communication to the Arvada.

11. CONFIDENTIALITY. LAZ agrees that all license plate information acquired or compiled by LAZ, including identifying information of motor vehicle ownership shall be used solely and exclusively for the purposes of parking enforcement and will not be sold or shared with any entity other than Arvada without the express written permission from Arvada.

12. **STAFF DIRECTION.** Arvada designates Derek Fern as Arvada's Project Manager. Mr. Fern will be Arvada's responsible staff member to provide direction to LAZ during the course of the Work. Arvada reserves the right to change the Project Manager(s) at its own discretion and will promptly notify LAZ of any such change in writing.

13. **PERFORMANCE MEASURES.** The Performance Measures for this Agreement shall be those proposed by LAZ in its Proposal. At a minimum, LAZ's performance shall be documented as to (a) completing the agreed upon scope of work, (b) completing within the contracted price, and (c) within the contracted timeline.

14. **ADDITIONAL DOCUMENTS OR ACTION.** The parties agree to execute any additional documents and to take any additional action that is necessary to carry out this Agreement.

15. **TERMS AND CONDITIONS IN SOLICITATION.** LAZ affirms that it has read and is familiar with the Contract Documents, including but not limited to the General Terms and Conditions, Special Terms and Conditions, Insurance Requirements, and other RFP requirements, and agrees to be bound by those terms and conditions.

16. **FORCE MAJEURE.** Any delays in or failure of performance by any party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or other materials, or other causes, similar or dissimilar, that are beyond the control of such party.

17. **BINDING EFFECT.** This Agreement shall inure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

18. **PARAGRAPH CAPTIONS.** The paragraph captions in this Agreement are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

19. **INTEGRATION, AMENDMENT, AND SEVERABILITY.** This Agreement represents the entire agreement between the parties, and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect if the essential terms and conditions of this Agreement for both parties remain valid, legal, and enforceable.

20. **NOTICES.** Any notice or notification required or permitted by the Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other party or parties. Such notice or

notification shall be deemed to have been given when deposited in the United States mail.

21. **BINDING AUTHORITY.** LAZ represents and affirms that the signature page hereof accurately states the full legal name of LAZ (whether as a corporation, partnership, limited liability company, sole proprietorship, or other), contains all requisite signature(s) on behalf of LAZ, has been properly acknowledged if required by attestation, notary acknowledgment, or both, and in all other respects is effective to bind LAZ, in accordance with all applicable statutes, regulations, resolutions, rules, bylaws, agreements, or similar sources of authority or limitation. This Agreement may be executed in counterpart(s), each of which shall be deemed to be an original, and all of which, taken together, shall constitute one instrument.

DATED this____________day of____________________________, 20___.

CITY OF ARVADA, a Colorado home rule municipal corporation

____
Marc Williams, Mayor
8101 Ralston Road
PO Box 8101
Arvada, CO 80002

ATTEST:

____
City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: ______________________________________

LAZ PARKING MIDWEST, LLC

____
Glenn Terk, Corporate Council
1899 Wynkoop Street, Suite 375
Denver, CO 80202
Email: gterk@lazparking.com

EXHIBIT 1

Arvada’s RFP-21-Parking Enforcement issued on April 21, 2021

CITY OF ARVADA

REQUEST FOR PROPOSAL

Proposal #: **RFP-21-Parking Enforcement**

Title: Parking Enforcement

RFP Issued: 04/21/2021

Question Deadline: 05/03/2021 4:00 p.m. local time
Questions and responses will be posted on BidnetDirect.com. This is the ONLY VALID source for postings regarding this solicitation.

Proposals Due By: **05/13/2021 4:00 p.m. local time**

Electronic Submissions must be submitted as (1) PDF online at BidNetDirect.com.
Your company name must be the first word naming the pdf file.
Late responses will not be considered for award.

Projected Start Date: 08/21/2021

Submit administrative questions NOT related to the scope to: Whitney Smith, wsmith@arvada.org
Direct contact with the requesting department may result in vendor disqualification.

Arvada Vision: We dream big and deliver.

Mission: We are dedicated to delivering superior services to enhance the lives of everyone in our community.

Values:

Innovation – We excel in creativity, flexibility and the use of best practices while valuing diverse backgrounds, ideas and perspectives.

Passion – We are a high performing, inclusive team inspiring each other to pursue excellence.

Opportunity – We value our diversity, embrace possibilities, face challenges, persevere and take action to deliver quality results.

Documents included in this Request:

GENERAL TERMS AND CONDITIONS

1. NO MULTI-YEAR FISCAL OBLIGATION. Financial obligations of Arvada payable after the current fiscal year are contingent on funds for that purpose being appropriated, budgeted, and otherwise made available by the City Council for Arvada. Arvada's obligations under the Agreement shall be from year to year only and shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of Arvada within the meaning of Article X, Section 20 of the Colorado Constitution (TABOR).

2. TAXES. Arvada shall not be liable for the payment of any excise, sales, or use taxes. Arvada is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.,* C.R.S. (Colorado Sales Tax Exemption Identification Number 98-01789). Contractor shall not invoice Arvada for any state, federal or local taxes. Upon written notification by Arvada, Contractor shall reimburse Arvada in a timely manner for any taxes erroneously paid by Arvada.

3. NO INDEMNIFICATION BY ARVADA. Arvada is prohibited under Article XI, Section 1 of the Colorado Constitution from indemnifying anyone. Despite any provision in any contract document to the contrary, Arvada does not indemnify Contractor or anyone else under the Agreement.

4. INDEMNIFICATION OF ARVADA. Contractor shall indemnify, defend, and hold harmless Arvada, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards, and other amounts (including attorneys' fees and related costs) arising from or related to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with the Agreement.

4.1. Confidential Information Indemnification. Disclosure or use of Arvada Confidential Information by Contractor may be cause for legal action by third parties against Contractor, Arvada, or their respective agents. Contractor shall indemnify, defend, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by Arvada in relation to any act or omission by Contractor, or its employees, agents, assigns, or subcontractors.

4.2. Intellectual Property Indemnification. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Deliverable, Good or Service, software, or Work provided by Contractor under the Agreement (collectively, "IP Deliverables"), or the use thereof, infringes a patent, copyright, trademark, trade secret, or any other intellectual property right. Contractor's obligations shall not extend to the combination of any IP Deliverables provided by Contractor with any other product, system, or method, unless the other product, system, or method is (a) provided by Contractor or Contractor's subsidiaries or affiliates; (b) specified by Contractor to work with the IP Deliverables; (c) reasonably required in order to use the IP Deliverables in its intended manner and the infringement could not have been avoided by substituting another reasonably available product, system, or method capable of performing the same function; or (d) is reasonably expected to be used in combination with the IP Deliverables.

5. GOVERNMENTAL IMMUNITY. Liability for claims for injuries to persons or property arising from the negligence of Arvada, its departments, boards, commissions, committees, bureaus, offices, employees and officials shall be governed by the provisions of the Colorado Governmental Immunity Act, §§24-10-101, et seq., C.R.S. (CGIA). No term or condition of the Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions contained in the CGIA.

6. OPEN RECORD REQUESTS. Arvada is obligated to comply with the Colorado Open Records Act (C.R.S. §§24-72-200.1 *et seq.*)(CORA), which may require Arvada to disclose all or a portion of communications relating to the Agreement, any transaction under the Agreement, and other related matters. Contractor has been advised to familiarize itself with CORA. Any confidentiality provisions in any contract documents are subject to the provisions of CORA.

7. PROTECTION OF PERSONAL IDENTIFYING INFORMATION. In the event the Agreement includes or requires Arvada to disclose to Contractor any Personal Identifying Information as defined in C.R.S. § 24-73-101, Contractor shall comply with the applicable requirements of C.R.S. §§ 24-73-101, et seq., relating to third-party service providers.

8. NO THIRD PARTY BENEFICIARIES. The Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than Arvada and Contractor. Enforcement of the Agreement and all related rights and obligations are reserved solely to Arvada and Contractor. Any services or benefits which third parties receive as a result of the Agreement are incidental and do not create any rights for such third parties.

9. ASSIGNMENT. Contractor's rights and obligations under the Agreement are personal and may not be transferred or assigned without the prior, written consent of Arvada. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Contractor's rights and obligations approved by Arvada shall be subject to the provisions of the Agreement. Any provision of an assignment that enlarges any duty, responsibility, or obligation of Arvada, or that limits, curtails, or diminishes any right or privilege of Arvada, without Arvada's express written consent, shall be void.

10. BINDING EFFECT. This Agreement shall insure to the benefit of, and be binding upon, the parties, their respective legal representatives, successors, heirs, and assigns.

11. SURVIVAL. Any provision of the Agreement that imposes an obligation on a party after the Agreement's termination or expiration shall survive the termination or expiration and shall be enforceable by the other party.

12. SUBCONTRACTS. Contractor shall not subcontract any of its responsibilities without Arvada's prior written approval, which will not be unreasonably withheld. Contractor shall submit to Arvada a copy of each such subcontract upon Arvada's request. All subcontracts Contractor enters into in connection with the Agreement shall comply with all applicable federal, state, and local laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of the Agreement. Contractor agrees it is fully responsible for subcontractors performing services under the Agreement. Contractor shall be Arvada's sole point of contact regarding the services, including with respect to payment.

13. INDEPENDENT CONTRACTOR. Contractor shall perform its duties under the Agreement as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of Arvada. Contractor shall not have authorization, express or implied, to bind Arvada to any agreement, liability, or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through Arvada and Arvada shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to the Agreement. Contractor shall: (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law; (ii) provide proof thereof when requested by Arvada; and (iii) be solely responsible for its acts and those of its employees and agents.**

14. LICENSES, PERMITS, AND OTHER AUTHORIZATIONS. Contractor shall secure, prior to the effective date, and maintain at all times during the term of the Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under the Agreement, and shall ensure that all employees, agents and subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to the Agreement.

15. STANDARD AND MANNER OF PERFORMANCE. Contractor shall perform its obligations under the Agreement in accordance with the highest standards of care, skill, and diligence in Contractor's industry, trade, or profession.

16. TIME OF THE ESSENCE. Contractor acknowledges and agrees that time is of the essence for this Agreement and that it is an essential term of this Agreement that Contractor maintain a rate of progress in the Services that will result in completion of the Services in accordance with this Agreement. To that end, Contractor agrees to proceed with all due diligence to complete the Services in a timely manner in accordance with this Agreement, and further agrees that failure to complete any of the Services during the Term of this Agreement, or as may be more specifically set forth in an attachment, exhibit, or modification, shall be deemed a breach.

17. WAIVER OF BREACH. A waiver by any party to the Agreement of a breach of any Agreement term shall not operate or be construed as a waiver of any subsequent breach by either party.

18. RIGHT TO TERMINATE. Arvada shall have the right to terminate, without cause, the Agreement. Any such termination shall not be considered a breach of the Agreement or any extension. In the event Arvada terminates for convenience, Arvada will pay Contractor for requested work performed up until the time of termination, not to exceed the total amount of the contract price agreed upon by Arvada and Contractor.

19. **EXTERNAL TERMS AND CONDITIONS.** Notwithstanding anything to the contrary, Arvada shall not be subject to any provision included in any terms, conditions, or agreements appearing on Contractor's or a subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in the Agreement.

20. **PROHIBITED TERMS.** Any term included in the Agreement that requires Arvada to indemnify or hold Contractor harmless; requires Arvada to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Any term included in the Agreement that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under the Agreement, and no insurance policy shall be interpreted as being subject to any limitations of liability of the Agreement.

21. **COMPLIANCE WITH ALL LAWS.** Contractor shall comply with all applicable federal, Colorado and Arvada laws, rules, regulations, policies and procedures in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

22. **BINDING ARBITRATION PROHIBITED.** Arvada does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary shall be null and void.

23. **GOVERNING LAW AND VENUE.** Colorado law, rules, and regulations shall be applied in the interpretation, execution, and enforcement of the Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to the Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in Jefferson County.

24. **OWNERSHIP OF WORK PRODUCT.** The originals of all plans, reports, studies, data, or other materials or information relating to the Work that are produced by Contractor shall be delivered to and become the property of Arvada. Contractor may retain copies of any originals; however, no plans, reports, studies, data, or other materials or information relating to the Work shall be released to any person or entity without the prior written consent of Arvada. Nothing in this clause is intended to affect Contractor's right to use generic know-how learned in the course of providing services under the Agreement for the future benefit of Arvada or others.

25. **SOFTWARE PIRACY PROHIBITION.** Arvada or other public funds payable under the Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of the Agreement and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If Arvada determines that Contractor is in violation of this provision, Arvada may exercise any remedy available at law or in equity or under the Agreement, including, without limitation, immediate termination of the Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

26. **PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.,* C.R.S.**

26.1. Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to <u>perform work under the Agreement</u>, through participation in the E-Verify Program or the Colorado verification program established pursuant to §8-17.5-102(5)(c), C.R.S.

26.2. Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

26.3. Contractor shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment (CDLE) ("Department Program") to undertake pre-employment screening of job applicants while the Agreement is being performed.

26.4. If Contractor obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, Contractor shall:

26.4.1. notify the subcontractor and Arvada within 3 days,

26.4.2. terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and

26.4.3. comply with reasonable requests made in the course of an investigation the CDLE takes pursuant to §8-17.5-102(5), C.R.S.

26.5. If Contractor participates in the Department Program, Contractor shall:

26.5.1. deliver to Arvada a written, notarized affirmation that Contractor has examined the legal work status of such employee, and

26.5.2. comply with all of the other requirements of the Department Program.

26.6. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., Arvada may terminate the Agreement for breach and Contractor shall be liable for damages.

27. PUBLIC CONTRACTS WITH NATURAL PERSONS, §§24-76.5-101, *et seq.*, C.R.S. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Contractor **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq*., C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the effective date of the Agreement.

SPECIAL TERMS AND CONDITIONS

1. PRICES FIXED AND FIRM FOR THE TERM OF THE CONTRACT:
Prices proposed by the vendor shall remain fixed and firm during the term of the contract; however, the vendor may offer incentive discounts from the fixed price. This contract shall commence upon the date specified in the Contract or Purchase Order and shall remain in effect until such time as all items/services purchased in conjunction with this solicitation have been delivered and accepted by the City's authorized representative. It shall be understood and agreed that any warranty period which exceeds this term shall remain in full force for the duration of the warranty period.

2. OPTION TO RENEW FOR SUBSEQUENT YEARS
The prices or discounts quoted in this Solicitation shall prevail for one year from the effective date of the contract, at which time the City shall have the option to renew the contract for 4 additional one year periods; provided that the vendor provided satisfactory performance during the contract period. Continuation of the contract beyond the initial period is a City prerogative and not a right of the vendor. Unless otherwise notified in writing, the option period shall become automatic at the end of the original period.
During the option period, the City will consider an adjustment to the pricing structure. For consideration, the vendor must document that it was subject to a price adjustment by the product manufacturer or a direct wholesale supplier. Any price adjustments shall not exceed the amount being passed on.

3. CONTENTS OF OFFER. Vendors are required to submit offers with the following conditions:

1) Vendors shall make all investigations necessary to inform themselves of the facilities affected by the delivery of products and services required by the Solicitation.

2) Any official interpretation of the Solicitation may only be issued by an authorized agent of the City. The City shall not be responsible for other interpretations offered by employees not authorized.

3) The City shall issue Addenda if substantial changes are required which may impact the content and submission of Offers. A copy of such addenda will be publicly posted with the original RFP posting.

4) The apparent silence or omissions within this Solicitation regarding a detailed description of the materials or services shall be interpreted to mean that only the best commercial practices are to prevail and that only materials and workmanship of first quality are to be provided.

4. CLARIFICATION AND MODIFICATIONS. The contract resulting from this solicitation will be subject to the Solicitation materials, City Ordinance, State and Federal Statutes. When conflicts occur, the highest authority shall prevail. Vendors are required to indicate any variances to the terms, conditions, requirements and specifications of this Solicitation; no matter how slight. If variations are not stated in the vendor's Offer, it shall be agreed that the vendor's Offer fully complies with all conditions identified in this Solicitation.

5. ELIGIBILITY OF VENDORS: MUST BE ENGAGED IN SUPPLYING PRODUCTS OR SERVICES RENDERED.
Offers will only be considered from firms which have been engaged in the business of manufacturing or distributing the goods and/or performing services described in this Solicitation. Vendors must be able to produce evidence that they have an established satisfactory record of performance for at least two (2) years and have sufficient finances and structure to ensure that they can satisfactorily execute the Contract requirements, as determined by authorities of the City. The City reserves the right, before awarding the contract, to require a vendor to submit evidence of its qualifications including, but not limited to, financial, technical and other qualifications, as well as past performance with the City, for consideration in making the award in the best interest of the City.

6. CONFIDENTIAL DOCUMENTS
Vendors may designate specific pages or sections within their submission as trade secret or confidential commercial information or as otherwise protected by law (“Confidential Information”). Documents and data that are considered Confidential Information shall be clearly marked as such and separated from the rest of the solicitation submission documents. Commingling is not acceptable. The City does not favor blanket assertions of Confidential Information. Please note that blanket assertions that merely classify and/or broadly claim information is confidential are insufficient as a matter of law. *See, International Brotherhood of Electrical Workers Local 68 v.*

Denver Metropolitan Major League Baseball Stadium District, 880 P.2d 160 (Colo.App. 1994). Any information that will be included in any resulting contract cannot be considered Confidential. Under no circumstances may submission pricing information be considered Confidential. In the event a formal contract is entered into with the City and a portion of the Proposal/Response carries a designation indicating the Vendor believes it is Confidential Information, then the City agrees that it will use its best efforts to forward any request for the disclosure of the Confidential Information to the Vendor. By its submission of the Proposal/Response ,Vendor agrees to promptly respond to the request for disclosure with any objections and reasons therefore in accordance with the Colorado Open Records Act C.R.S. §§24-72-101 *et seq.* and any other applicable law. Further, Vendor agrees to assume the obligation to defend, hold harmless, and indemnify the City in any legal proceeding that arises from non-disclosure of documents or data pursuant to the Vendor's objection.

7. COOPERATIVE PURCHASING

The City of Arvada encourages and participates in cooperative purchasing endeavors undertaken by or on behalf of other governmental agencies including the Multiple Assembly of Procurement Officials (MAPO) and the Cooperative Educational Purchasing Council (CPEC).

We hereby request that any member of MAPO/CEPC be permitted to avail itself of this contract and purchase, as specified by the contract resulting from this RFP, at the contract prices established therein. Each governmental entity would establish its own contract, issue its own orders, be invoiced directly, make its own payments and issue its own exemption certificates as required. It is understood and agreed that the City of Arvada is not a legally binding party to any contractual agreement made between another governmental entity and the successful vendor as a result of this solicitation. The City shall not be liable for any costs or damages incurred by any other entity.

8. MODIFICATIONS TO EXISTING CONTRACT

Terms and conditions may be added, modified, and deleted upon mutual agreement between authorized agents of the City and the vendor provided that such terms and conditions remain within the scope and original intent of the Solicitation. Said terms and conditions may include, but are not limited to, additions or deletions of service levels and/or commodities, and increases or decreases in the time limits for an existing contract. Any and all modifications must be signed by authorized agents of the City and the vendor prior to the enactment of such modifications.

9. DELIVERY

Quoted prices and deliveries are to be FOB Destination freight prepaid and shall require inside delivery unless otherwise specified in the Special Conditions of this Solicitation. Title and risk of loss shall pass to the City upon inspection and acceptance by the City at its designated point of delivery; unless otherwise specified in the Special Conditions.

10. CONDITION OF MATERIALS AND PACKAGING

All materials and products supplied by the vendor in conjunction with this solicitation shall be new (unless otherwise specified in the Special Conditions), warranted, free from defects, and consistent with industry standards.

The Solicitation price shall include commercial packaging. The materials and products shall be delivered to the City in excellent condition for inspection by City representatives. If the product(s) is damaged or a number of items or components are missing during shipment, the vendor shall either replace the damaged items (if shipped by the vendor) or be responsible for filing, processing and collecting all damage claims (if shipped by a contractor of the shipper). In the event that any of the materials and products supplied to the City by the vendor are found to be defective or do not conform to the specifications, the City reserves the right to return the product to the vendor at no cost to the City; either as an exchange for suitable merchandise or for full credit.

INSURANCE REQUIREMENTS

The following listed insurance requirements shall be carried by the selected vendor for the entirety of the contract. Applicable requirements for this solicitation are identified by completed check boxes.

1. ☒ **Commercial General Liability**, written on an occurrence form, for limits not less than $1,000,000 for bodily injury and property damage for each occurrence and not less than $2,000,000 aggregate. Coverage shall include premises and operations liability, blanket contractual, broad form property damage, products and completed operations and personal injury endorsements.

2. ☒ **Workers' Compensation and Employers Liability** as required by statute. Employers Liability coverage is to be carried for a minimum limit of $1,000,000 each accident/disease and $1,000,000 aggregate.

3. ☒ **Automobile Liability** for limits not less than $1,000,000 combined single limit for bodily injury and property damage for each occurrence. Coverage shall include owned, non-owned and hired automobiles.

4. ☐ **Umbrella Liability** of $, following form to the Commercial General Liability.

5. ☐ **Builders Risk or Course of Construction** Purchased by contractor to cover physical damage to property in construction or rehab. Contractors will ensure that City and subcontractors will be covered as additional insureds, excluding their own machinery, tools and equipment.

6. ☐ **Professional Liability** Professional Liability insurance in an amount of not less than One Million Dollars and No cents ($1,000,000.oo) per occurrence, covering the professional work contemplated under this proposal. The coverage shall have an extended reporting period of three (3) years following the date of substantial completion of the work for reporting of claims.

7. ☐ **Pollution Legal Liability Insurance** for limits not less than $1,000,000 per occurrence (or claims made) and not less than $1,000,000 aggregate for bodily Injury, personal Injury and property Damage.

8. ☐ **Privacy/Network/Cyber Liability Insurance f**or limits not less than $1,000,000 for any firm providing product or services associated with IT, software, communication, or network.

Additional Insurance Requirements:

- Contractor will be required to, at its own expense, keep in full force and effect during the term of the Agreement, and during the term of any extension or amendment of the Agreement, insurance reasonably sufficient to insure against the liability assumed by Contractor pursuant to the provisions of the solicitation sent by the City of Arvada or as determined by the City of Arvada Risk Manager.

- Issuance of a Purchase Order/Contract is contingent upon the receipt of the insurance documents. Work shall not commence before this requirement is met. If the vendor fails to submit the required insurance documents within fifteen (15) calendar days after notice to submit such policies is given to the vendor by a City representative, the vendor may be in default of the Award.

- Except for Workers Compensation, Employer's Liability insurance, Automobile Liability and Professional Liability insurance, the City of Arvada must be endorsed as an additional insured on a Certificate of Insurance.

- All coverage must be written with carriers holding a minimum A.M. Best rating of A-:VII, and authorized to do business in Colorado. Coverage shall be primary, and any insurance held by the City of Arvada is excess and non-contributory.

- The City, through its Risk Manager, reserves the right to require additional insurance coverage and other requirements.

ADMINISTRATIVE INFORMATION

1. PURPOSE - TO OBTAIN PROPOSALS:

The purpose of this Solicitation is to provide qualified vendors with sufficient information regarding the City's needs in order to adequately prepare and submit a Proposal.

Proposals must be received by the date and time established in this solicitation. Once the deadline has passed, the Proposals will not be accepted and will be returned to the vendor.

Proposals are proprietary working documents offered by prospective vendors and, as such, are not subject to public inspections until an official award is made.

2. PREPARATION AND SUBMISSION

Offers will be prepared as follow:

1) A blank shall be construed as "No Bid/not offered". Where there is a discrepancy between the unit price and the extension of prices, the unit price shall prevail.

2) Vendors will not knowingly participate in solicitations where there exists a conflict of interest with their firm and a member of City staff or their immediate family.

3) Solicitations and addenda are available at WWW.BIDNETDIRECT.COM. Registration is available to receive email notification of new solicitations, addenda and communications.

4) Vendors who qualify their Offers by requiring alternate contractual terms and conditions as a stipulation for contract award, must include such alternate terms and conditions in its Offer. The City reserves the right to declare the vendor's Offer as non-responsive if any of these alternate terms and conditions are in conflict with the City's terms and conditions, or its best interest. Once Offers have been opened, the City shall not consider any subsequent submissions of alternate terms and conditions.

3. MODIFICATION OR WITHDRAWAL OF OFFERS

Modifications to Offers- Changes to the Offer after the submission deadline shall be allowed only when the vendor can show convincing evidence that an unintentional factual mistake was made. Modification requests must be made in writing. Any modification submitted to the City must have the vendor's name, address, Solicitation Number and title included.

Withdrawal of Offers- Offers may not be withdrawn after the deadline for the Solicitation for a period of ninety (90) calendar days. If an Offer is withdrawn by the vendor during this ninety (90) day period, the City may, at its option, suspend the vendor and may not accept any Offer from the vendor for a six (6) month period following the withdrawal.

REJECTION OF OFFERS

A. The City may reject an offer, in whole or in part, for reasons including, but not be limited to:

1) The vendor misstates or conceals any material fact in its Proposal;
2) The vendor's Offer does not strictly conform to the law or requirements of the Solicitation;
3) The Offer expressly requires or implies a conditional award that conflicts with the method of award stipulated in the Special Conditions;
4) The Offer does not include documents which are required for submission with the Offer; or
5) The Offer has not been executed by the vendor through an authorized signature.

B. The City may, at its sole and absolute discretion:

1) Reject all or parts of Offers submitted by prospective vendors;
2) Re-advertise this Solicitation;
3) Postpone or cancel the Solicitation;
4) An Offer may not be accepted from, nor any contract be awarded to, any person or firm which
   a) is in arrears to the City for any debt or Contract, or is a defaulter as surety for any obligation to the City.
   b) has failed to perform faithfully any previous contract with the City, State or Federal governmental for a minimum period of one (1) year after this previous Contract was terminated for cause.
   c) has pending litigation against the City on the date and time that the Solicitation is due.

BEST VALUE AGENCY

The City of Arvada is a best value agency. The intent of this solicitation is to award to the lowest responsive, responsible proposer that meets or exceeds the specifications and requirements incorporated in these solicitation documents. It is solely incumbent on the staff of the City of Arvada to conduct due diligence to determine best value prior to award.

METHOD OF AWARD - BEST EVALUATIVE SCORE BASED ON WRITTEN PROPOSAL:

It is the intent of the City to award a contract to the vendor(s) who receives the highest score from the City's RFP Evaluation Committee.

The Committee will score written Proposals by reviewing documentation submitted by the vendors. Evaluation will be based on the following criteria:

1) Contractor capabilities including assigned staff experience and expertise operating current software/hardware components or similar technologies
2) Ability, skill and capacity of Contractor to perform the services required for the operation
3) Sufficiency of Contractor's financial resources necessary for the operation
4) Contractor's customer service philosophy, integrity, reputation and efficiency
5) Effectiveness of transition plan
6) Price/total yearly cost of operation under current configuration and proposed cost of adding pay parking phase
7) Performance Measures (see last page)

Exceptions to specifications or terms and conditions may result in submission being deemed non-responsive.

PRESENTATIONS:

A second phase MAY be incorporated, in which the Committee will invite a limited number of vendors who received high scores during phase one, to provide an oral presentation. The evaluative score from the oral presentations will determine the top rated vendor(s).

SCOPE OF WORK

I. BACKGROUND:

Historically, the City of Arvada has managed parking in its small business district known as Olde Town. As a suburb, the community has focused on providing plenty of free parking to support businesses, residents, and visitors. In the late 2000's, the Regional Transportation District (RTD) applied and received a grant to build the RTD Gold Line commuter rail system and parking, land-use, and business needs started to shift into an urban downtown environment. In the spring of 2014, ahead of the scheduled 2016 opening date of the Gold Line rail system, timed (not metered) parking enforcement began with municipal services such as Arvada Police responding to parking issues. The Arvada Police Department provided enforcement of parking spaces, as well as special or restricted parking zones and areas. Services were performed using license plate reader technology as well as hand chalking tires. As Olde Town became a Transit Oriented Development (TOD) area, the parking needs continued to shift and the City partnered with RTD to construct a Transit Hub to support the urbanizing downtown area.

Since late August 2016, the City of Arvada has enlisted professional parking management services through LAZ Parking with a multi-year contract to enforce parking restrictions, limitations and general offenses in the Olde Town Arvada area outlined in the Scope of Work (SOW) A. 1 below. The contracted services provider is not compensated in connection with revenue generated by citation collection. The first phase of this contract covered the on-street parking and off-street parking lots including the residential permits within Olde Town, and the second phase included the additional enforcement and permitting of the Olde Town Transit Hub when it opened on April 26, 2019.

In order to support the growth and urbanization of the City of Arvada, the City hired a full-time Travel Demand Management (TDM) and Parking Coordinator (here in-after referred to as "Manager") in early 2020.

Currently the City's contractor provides parking enforcement operations in the outlined area in A. 1 below, utilizing the following software/hardware components:

- Passport Parking for mobile citation issuance, citation management (OpsMan services such as appeals, online payment, parking registration in Hub, etc.) and permit management (www.arvadapermits.rmcpay.com) of our roughly 320 active permits (resident, resident visitor, Olde Town employee, St. Anne Teacher, Transit Hub parking)
- Genetec SharpV License Plate Reader (LPR) cameras and Security Desk/Patroller software (4 stationary cameras in the Olde Town Transit Hub, and two on the City-owned 2021 Chevrolet Bolt patrol vehicle)
- Three (3) T2 Luke II multi-space pay stations in the Hub, with Digital Iris online software platform for data collection and revenue management

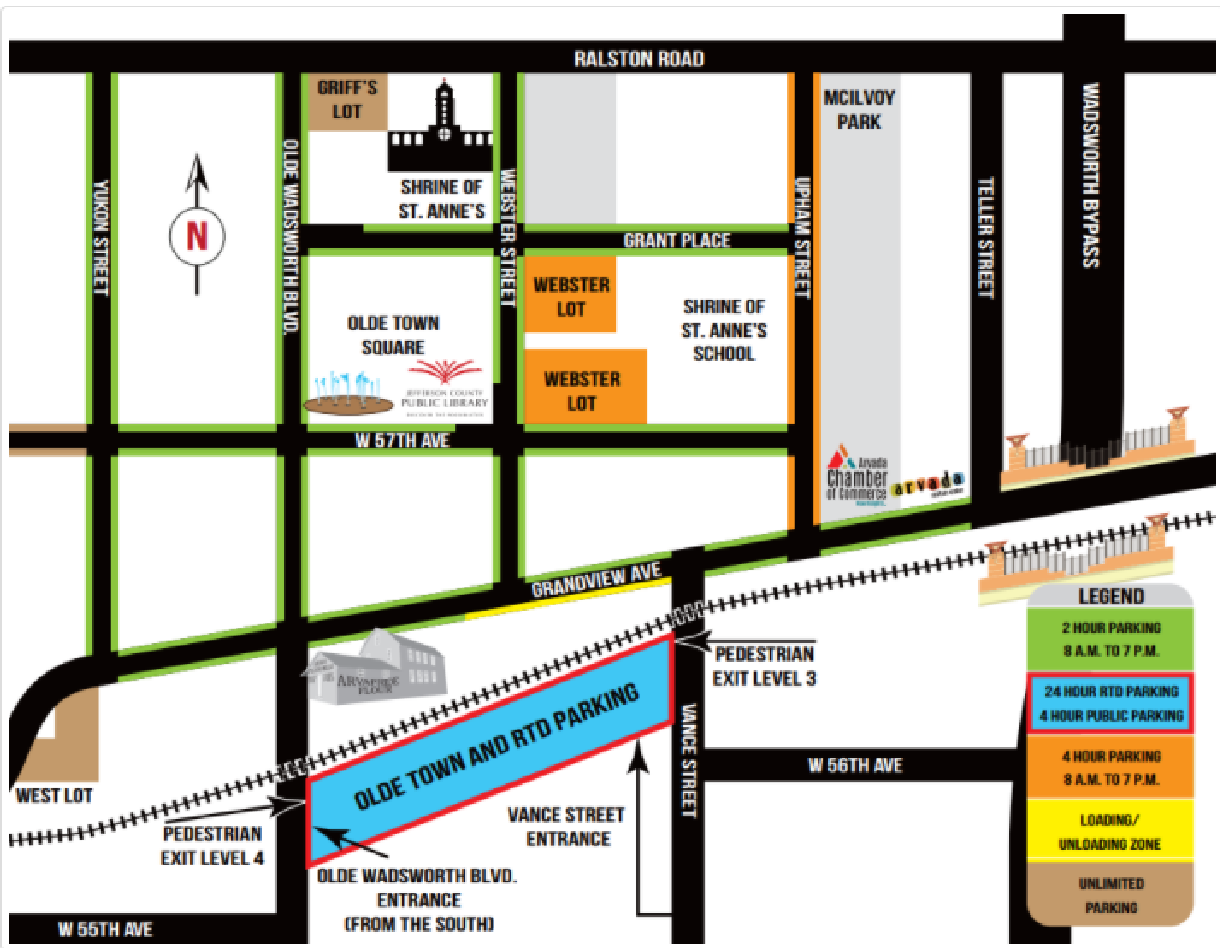
Ongoing development, redevelopment and roadway allocation (e.g. road closures for pedestrian mall) within the Olde Town area will continue to either add or subtract from the available public parking outlined in A. 1. Future inventory may be in the form of residential permits for the neighborhoods surrounding Olde Town as well if pay parking is implemented. Pay parking may be a near-term component of parking enforcement as high parking demand requires.

II. SCOPE OF WORK:

Provide comprehensive Parking Enforcement services in Arvada, Colorado that accommodates and includes, but is not limited to, the following components and expectations:

A. Location Services Detail

1) Current Enforcement in Olde Town: Daily (active) patrols of approximately 1,100 spaces from Ralston Rd. to Grandview Ave. and Yukon St. to Upham St. including the Transit Hub just south of Grandview Ave.; 360 of those are on-street, 2 and 4 hour spaces; 140 off-street, 4 hour parking spaces (Webster, Griff's and South Lots); 600 spaces in our Olde Town Transit Hub; parking enforced from 8AM to 7PM daily.



2) General Monitoring, Olde Town and throughout the Arvada City limits: En route (active in Olde Town District, passive in additional and on-call areas) monitoring of handicap parking, school zones, loading zones, bike lanes, no parking areas, compact only spaces, permit restricted residential areas, registered parking sessions within the Olde Town Transit Hub and private parking areas.

3) Additional Enforcement throughout City limits: Periodic monitoring on an on-call basis, with each zone being scheduled a minimum of once per month of bike lanes around the City, G-Line Station areas, and within a half mile radius of the 10 permit restricted residential areas around our High Schools/public parks:

- Yankee Doodle Park
- Arvada West High School
- Arvada High School Ballpark
- The Meadows at W. Woods Park
- Arvada Senior High School
- Other areas as agreed by both parties
- Foster Elementary Ballpark
- Skyline Park
- Majestic View Park
- Memorial Park
- Pomona High School

For additional information on these residential permit restricted zones:
https://arvada.org/explore/transportation/residential-parking-permit-faq

4) Pay Parking Program: Application to Current Enforcement in Olde Town in A. 1; to include hardware (vendor selection, options, functionality, etc.), method of fare collection, software platforms, the ownership, methods of purchase and/or financing, and associated costs, all of which are approved in writing prior to purchase by City/Manager; which is rolled out through collaboration with the Manager in consideration of appropriate paid parking rates; where the operation/management of the program is managed by Contractor, and compensation for contracted services is not connected to parking revenue.

B. Experience and Expertise

Proposer must have three (3) or more years of experience operating and managing Municipal Parking operations as described in A. 1-4; managing LPR systems similar to the current configuration outlined in I. Background; regular coordination and planning with the Manager on project initiatives and studies; demonstrates an extension of city staff; sufficient and relevant to Location Services Detail, above (A. 1 - 4); with large regional transportation districts; involving management, operations and maintenance of parking garages, with multiple owners and interest groups serving transit oriented development areas; with the transition/application from Timed to Pay Parking Programs; with City's current software/hardware configuration and/or similar technologies for citation and permit management; demonstrated experience operating and managing parking payment devices similar to those currently operated by the City; proposer must have a local office, or at the least a regional support office within 25 miles of the City of Arvada.

C. Customer Service

An effective philosophy and practices that demonstrates a clear customer centric focus and communicates "parking ambassador" through professional services and daily interactions; all personnel will be courteous and polite to all patrons at all times; Contractor will respond promptly to all complaints/appeals and keep a detailed and comprehensive record of all complaints/appeals, and discuss with Manager regularly; provides extensive hours of operation and access; builds and maintains good client relationships; responds in a reasonable amount of time to permit applications; extends to enforcement and interactions with parking constituents/citizens/residents/business owners, including administration of complaints through the current configuration of online payment/appeal and telephone line in a timely manner; .

D. Enforcement Methodologies

Utilizes well developed programs/practices using the current hardware/software configuration that result in efficient, effective and consistent parking enforcement services, including (but not limited to) comprehensive processes for:

- Citations and Warning Notices - methods of issuance (written/electronic) and record keeping
- Fine Payments – optional methods; non-payment circumstances and possible collections.
- Citation Disputes through online portal
- Customer issues/feedback
- Permit application management
- Quality control: monitoring citations on a regular basis to ensure completeness, and accuracy
- Coordination with Arvada Police Department when towing

E. Equipment and Technology

Has the ability to take over the operation and management of (a) current enforcement/monitoring applications in the provided enforcement vehicle and in our Transit Hub outlined in I. Background above, and (b), when implemented, operates Pay Parking Programs (street vs. garage parking, etc.); maintained at a fully functional level; with support and backup or replacement contingency plan; maintains City's accessibility of current online/software based dashboards; coordinates with hardware/software vendors to ensure systems remain fully operational and manages changes within the systems as needed for the operation; administers the parking permit system (e.g. Olde Town Employee, Residential, St. Anne's Teacher, etc.); coordinates with Manager on operation of current parking configuration with the additional enforcement areas.

F. Staffing and Personnel Management

Maintains consistent and effective workforce supervision by Operation Manager; utilizes a comprehensive employee hiring/selection process including drug and background screening, and motor vehicle report (MVR); administers an effective initial and on-going employee training program; maintains adequate personnel to provide the level of service required to meet the needs of the Agreement; adheres to an appropriate employee uniform policy approved by Manager where a uniform is always worn by all personnel when on duty; ensures all personnel are neat, clean and deal with patrons in a prompt, polite and professional manner; Operations Manager for Contractor must be approved by Manager in writing prior to hiring; employee/operations manager incentives programs must be requested and approved in writing by Manager and will be based on the details of the request; makes necessary steps to maintain consistent staff; if necessary and applicable, makes staffing assignments through "travel demand management strategies" with other nearby clients/work sites.

G. Reports and Advice

Has systems and the capacity to provide detailed monthly and relevant reports, derived from the data collected through the services being performed for the City, as well as for the "parking services industry", such as occupancy counts, duration of stay statistics, number of citations issued, number of citations paid, and others that Manager may request on behalf of the City; has the skill and expertise to effectively consult with the City on parking/enforcement/traffic matters; confers with Manager weekly, at a minimum, or as often as needed with the City to coordinate operations and discuss financial and expenditure position; Contractor leadership at some capacity will have the ability to present materials/data/recommendations, etc. to City Council as needed for sake of operations.

H. Scalability

A high level plan and resources for the transition of the Vendor's contracted services to (a) the City's current parking enforcement/monitoring structure in I. Background and II. A. 1-2, (b) the additional enforcement areas outlined above in II. A. 3, and to (c) a Pay Parking Program (see A. Location Services Detail, above), from execution of a City contract to a fully operational state; Contractor will have the ability to take on more areas of enforcement as needed and approved by both parties as necessary for addressing the City's growing needs.

I. Financial Accountability

1) Pro Formas/Budgets: Has the ability to provide a detailed pro forma/yearly cost estimate outlining all yearly expenses incurred for the operation, including those from third-party software/hardware vendors in the RFP response, and work within this specified amount of yearly expenses while maintaining high levels of customer service, operational excellence, and hours of operation; submits to the City for approval a twelve (12) month operating budget for each year of the Agreement, based upon the information in this RFP, within 30 days of the contract's effective date.

2) Monthly Reimbursable Expenses: The City will reimburse the Contractor for the approved operating expenses outlined (but not limited to) below on a monthly basis; Contractor must provide in writing a request for approval to Manager for any expenses that are unbudgeted before any expenditure of the item; provides clear, itemized invoices with backup for each line item on all monthly financial reports by the 15th of the following month including specifically the following, but not necessarily limited to:

- Salaries for managers and all wages for all other employees according to classification supporting this Agreement
- Payroll taxes and employee benefits, e.g. FICA, health benefits, 401K, etc.
- New hire screening (background screening, drug screening, Motor Vehicle Report, etc.)
- Uniforms
- Telephone expense for mobile citation issuance
- Office supplies
- Receipt and ticket paper rolls
- Revenue Control System support and maintenance
- Enforcement supplies or services
- Insurance premiums and deductibles required under this agreement and specifically allocable to the Agreement in accordance with our Risk Management Department
- Management fees
- Licenses and permits
- Passport citation collection and permit fees
- Bank and credit card fees
- Chargepoint fees

Excluded from Reimbursement - The following items are expressly excluded from reimbursement as operating expenses under the Budget. These items shall be provided, if applicable, by the Contractor at their own expense:

- Executive and administrative level overhead expenses not previously approved
- Contractor office lease/mortgage payments
- Office equipment, including furniture and computers
- Cost of repairs for damage to City property caused by contractor's negligence
- Travel expenses outside the City of Arvada
- Entertainment expenses
- Professional memberships and subscriptions
- Losses and expenses associated with theft or robbery of operations revenue
- Losses and expenses associated with employee theft, shortage, or mismanagement

3) Records and Reporting: Provides all monthly citation generated revenue on a monthly basis with proper backup as recorded internally through a financial institution as well as support from Passport reporting capabilities; summarizes any significant variances in revenue and/or expenses in comparison to submitted budget; includes in each monthly operational/financial report the following by the 15th of the following month:

- Profit and Loss Statement by month and year to date
- Revenue summary
- Detailed deposit report
- Payroll distribution detail report
- Annual budget summary
- Variance report of revenue and expenses - current month vs. budget, YTD vs. budget and current month vs. same month year prior
- Detailed expenditure report by line item with supporting documentation/invoices for all reimbursable expenses
- Citation summary report (issued, revenue received, and outstanding)
- Occupancy and utilization report(s) from mobile registration, kiosk registration and LPR/manual counts

4) Deposits and Credit Card Settlements: Contractor will have a designated City bank account where all citation collection revenue will be deposited within 24 hours of the collection date Monday through Friday with documentation of the date and time of deposit; contractor will settle credit cards daily; as part of the monthly reporting all deposit and credit card settlement information will be provided; 100% of all revenues collected (citation revenue, delinquent fees, and future pay parking) for the operation shall be made to the City no later than the 15th day of the following month.

III. REQUIREMENTS or ADDITIONAL "DESIRED" COMPONENTS:

A. City of Arvada Parking Ordinance - Requirement

Enforcement and monitoring services shall be performed in accordance with applicable City ordinances. Please note that the following link represents the state of the current parking ordinance, which may be subject to, or require, revision(s) from time-to-time, in order to accommodate parking conditions and the needs of the City:

https://library.municode.com/co/arvada/codes/code_of_ordinances?nodeId=PTIICOOR_CH54MOVETR_ARTIVLOPARE_DIV1PAREINSIPAPA

B. Parking Innovations - Desired

Supporting the City's efforts to capture and process information with the goal of aggregating data from multiple sources (including existing technology and possibly big data) to communicate local parking information (e.g. availability, durations, limits, etc.) in real time to visitors of Olde Town through mobile friendly application based software; aggregating data as mentioned in a dashboard for reporting and planning purposes for future interests.

C. Special On-Call Services - Requirement

Providing personnel and equipment related to special circumstances in area of operation of A. 1, such as special events, experimental projects, and traffic direction requested by Manager at contract rates that would be proposed by Contractor and approved by Manager; for example:

Director	$W rate/hr.
Project Manager	$X rate/hr.
Supervisor	$Y rate/hr.
Valet/flagger/additional enforcement officer	$Z rate/hr.

REQUIRED VENDOR SUBMITTAL FORM

SUBMITTED BY:

Company Name: ____

Contact Names: Sales/Customer Service ____

Address: ____

Phone: (______) ____________________ Email(s): __________________________________

The undersigned hereby affirms that:

- He/she is a duly authorized agent of the vendor;
- He/she has read all Terms and Conditions and technical specifications made available in conjunction with this solicitation and fully accepts and acknowledges this offer is consistent with the specifications and terms and conditions, unless specific variations have been clearly and expressly listed in the offer.
- The Offer is in all respects fair, without outside collusion or otherwise illegal action.

By:__________________________________ ______________________ ________________________________

Signature of Authorized Agent | Date | FEIN

__________________________________ ______________________ ________________________________

Typed/Printed Name of Agent | Title of Agent | Agent email

__________________________________ ______________________ ________________________________

Typed/Printed Name of Witness | Title of Witness | Witness email

PAYMENT TERMS: If the vendor does not accept a percentage discount, the City standard is net thirty (30) days after the date that the City receives an accurate invoice and has accepted the product or service. Payment is the date of the check mailing or date of the credit card transaction.

Discount: ____% ____ Days, Net: 30____Days, Accept Visa without additional fee? ________________

VARIATIONS: The vendor shall identify all variations and exceptions to any RFP documents. Submittal of a Vendor Contract is considered excessive in Variations and may be cause for determining that the Bid/Offer is non-responsive and ineligible for award. For each variation listed, reference the applicable section of the solicitation document as per the example below. If no variations are listed here, it is understood that the vendor's Offer fully complies with all terms and conditions. Attach additional Variation sheets in the same format as below after starting the first three on this page.

Page #:______ Item # or Section: _________________________

Variance ____

____

Page #:______ Item # or Section: ________________________

Variance ____

____

Page #:______ Item # or Section: _________________________

Variance ____

____

SUBMITTAL INSTRUCTIONS:

Proposals shall be submitted in the order listed below with each section clearly identified.

- Submit ON-LINE at BidnetDirect.com
- Cover & Executive Summary.
- Detail Firm's and employees' Capabilities, Experience, Licensing, and Compliance Status.
- Details of Proposal – Proposed products & services, implementation timeline and warrantees.
- Completed City Submittal Forms including this sheet and all other attachments specifically requested.
- Pricing – All fee and costs associated with the proposal.
- Performance Measures Form, when an applicable service.
- Insurance – Checking this box accepts that the insurance requirements listed by the City are acceptable unless listed in the variations on the previous page.
- CONFIDENTIAL information, if any, MUST be stamped as such on each page and submitted separately.
- Please initial to acknowledge Addenda, if any, have been considered in your proposal:
  #1 ____________________________ #2 ________________________ #3 ____________________________

REFERENCES:

- Check here if Firm's standard reference sheet is attached, otherwise, use the space below.

Name: ____ Contact Person: ___________________________

Address: ____

Telephone No: ____ Email: ___________________________________

Describe type of work/service performed or items supplied: ____
____

Name: ____ Contact Person: ___________________________

Address: ____

Telephone No: ____ Email: ___________________________________

Describe type of work/service performed or items supplied: ____
____

Name: ____ Contact Person: ___________________________

Address: ____

Telephone No: ____ Email: ___________________________________

Describe type of work/service performed or items supplied: ____
____

PERFORMANCE MEASURES FORM INSTRUCTIONS:

The City has incorporated Performance Management into its organizational culture. When vendors submit offers to the City in response to solicitations for ***Services*** (not associated with the primary purchase of goods, supplies, or software), they shall identify the methods and goals by which they will monitor and report their performance providing those services to the City. Vendor's performance shall be documented as to (a) Price/Cost, (b) Punctuality/Responsiveness (c) Quality/Reliability, and (d) Sustainability/or Innovation.

1. Vendor will define 1-2 measures for (a) Price/Cost, (b) Punctuality/Responsiveness (c) Quality/Reliability, and (d) Sustainability/or Innovation, that follow S.M.A.R.T goals: Specific, Measurable, Achievable, Relevant, and Timely, per category.
2. The awarded vendor will self-score their defined metrics within a score card emailed from purchasing 2 months prior to contract renewal. The department will review the vendor's self-scored measures.

SERVICES means: the furnishing of labor, time, effort, maintenance, etc., by a vendor/contractor/consultant, with an initial contract amount of more than $15,000.

(a) Price/Cost

Example Measure: Consultant will submit detailed invoices substantiating amounts requested.

1. ____
   ____
2. ____
   ____

(b) Punctuality/Responsiveness

Example Measure: Reporting of project status will occur monthly with the City and consultant's Project Manager.

1. ____
   ____
2. ____
   ____

(c) Quality/Reliability

Example Measure: Revisions are drafted within two weeks, and no more than 3 revisions prior to final draft.

1. ____
   ____
2. ____
   ____

(d) Sustainability and/or Innovation

Example Measure: Digital reports delivered to the City 95% of the time will to reduce the use of paper.

1. ____
   ____
2. ____
   ____

Performance measures will be queried for every year of the contract. Performance measures reporting will partially inform re-contracting with or renewing a contract with a vendor.

EXHIBIT 2

LAZ's Proposal dated May 11, 2021

Parking Enforcement Proposal

City of Arvada, Colorado

RFP-21-Parking Enforcement

May13, 2021

LAZ GOVERNMENT SERVICES

CITY OF ARVADA

Attn: City of Arvada May 13, 2021

Thank you for the opportunity to submit a parking enforcement proposal for the City of Arvada and the Olde Town Arvada district. LAZ Parking wishes to align our goals with yours and to continue the great partnership that was established beginning in 2016.

LAZ Parking has extensive experience with on-street parking enforcement for various municipalities the country. Our expertise has been thoroughly demonstrated in Arvada, as we have assisted the City in successfully implementing on-street and lot enforcement over the past 5 years. LAZ has been operating in the Greater Denver area for 9 years and our success has been marked by continuously exceeding our clients' expectations and performance goals. We are providing several references within this proposal, which have changed since we originally submitted our proposal 5 years ago to the City. We encourage you to reach out to some of our current clients about how LAZ Parking continues to raise the bar in Municipal Parking Services.

To this point, we believe that LAZ Parking has been a reliable and strategic partner to the City of Arvada. We continue to promote advancements in technology while hiring and developing service-oriented employees. We are eager to help you continue to achieve your objectives and hope to continue serving the City of Arvada in this capacity. Upon review of this proposal, we ask for the opportunity to meet and discuss any questions or next steps.

Proposal Summary

- **Operation Expense:** LAZ Parking has not increased our fees, including management, insurance and professional services form the original submission 5 years ago. We will continue to honor these fees, detailed in the pricing sheet, throughout the next contract.

- **Cost Estimate:** The cost estimate entered into the BidNet represents total annual expenses, excluding citation and free session fees. Due to the current workforce conditions in Colorado, the budget assumes a $17/hr rate for the parking ambassadors, however current wages are approximately $15/hr. *LAZ will only bill the City the actual wage paid.*

- **Additional Enforcement Zones:** As the enforcement area is expanded from the current scope, LAZ Parking is confident that we will be able to expand the enforcement within the current staffing structure requested, and therefore has not proposed additional staffing. In making this decision, LAZ Parking has conducted timed routes to ensure that this can be done.

- **Business Intelligence (BI) System –** As outlined within our proposal, we will develop a custom BI dashboard for the City of Arvada incorporating all enforcement and transactional data. This system will be developed and provided at no cost to the City and LAZ will waive all license fees for the first six months once the dashboard is complete.

LAZ Government Services Expansion: For almost four decades, LAZ Parking has been one of the nation's premier operators specializing in parking services for municipalities and government agencies. Recently, LAZ announced the acquisition of Serco Parking Services, a leading public services provider. This partnership brings together a leadership team with a combined 180+ years of experience managing parking for local, state and federal governments. The acquisition significantly increases the number of spaces LAZ manages nationally and brings total meter revenue collected annually to nearly $300 million, more than doubling the amount collected by LAZ previously. With the added strength of

Serco, LAZ Parking is now the largest private provider of on-street parking management in the United States.

Thank you for your consideration of our proposal. We are honored to be the City's Parking Enforcement provider and we look forward to continuing our partnership into the future.

Sincerely,

Max Fuller	Chris Conley
General Manager	Regional Vice President
mfuller@lazparking.com	cconley@lazparking.com
303.291.1111 x115	303.291.1111 x106

Table of Contents

LAZ PARKING DETAILS AND EXPERIENCE

Company Overview

Through this proposal we demonstrate how the LAZ team has the operational expertise, financial strength and exceptional local resources to successfully manage, operate and provide for all of the tasks and services outlined in the Request for Proposal. LAZ Parking is a national parking company, headquartered in Hartford, CT, with regional offices in **Denver**, Atlanta, Boston, Charlotte, Chicago, Columbus, Dallas, Los Angeles, Miami, Nashville, Minneapolis, New York, Philadelphia, San Diego, San Francisco, Washington DC and Seattle. LAZ Parking operates through these regional offices headed by officers of the company. This organizational structure enables LAZ to offer its clients the resources of a large company but with the attention and responsiveness more typical of a local company.

LAZ Parking is the second largest parking company in the US, with the broadest experience and finest employees in the industry. We successfully manage over $1.4 billion of annual revenue on behalf of our clients annually, covering over one million parking spaces. LAZ Parking's portfolio includes major on-street and off-street municipal parking, mass transit parking systems, entertainment/event parking, residential buildings, hotels and resorts, office buildings, mixed-use projects, hospitals and medical complexes, airports, university parking and valet-oriented parking specifically for restaurants/hotels/hospitals.

In 2007 one of the world's largest parking firms, Indigo [formerly VINCI Park] acquired a 50% interest in LAZ. The companies merged their respective expertise and cultures to form the LAZ Parking of today. The combination of lifelong friendship, a people-focused philosophy and the financial backing and operational excellence of Indigo, has resulted in a truly unrivaled international parking operations team.

As our company has continued to grow, our founders, the three original partners, are still deeply involved with the company, bringing their strengths to various aspects of our business. The success of their business stems from building strong client relationships, empowering employees to "Think like an Owner," and never losing touch with their roots. LAZ employs more than 13,000 parking professionals who are dedicated to providing the highest level of service in the industry. The loyalty and care that our employees have for their jobs and their customers is unmatched in the industry.

Company History

The roots of LAZ Parking are founded on childhood friendships that were formed in the mid-1970s when Alan Lazowski, Jeff Karp and Michael Harth became best friends in a small town near Hartford, CT. Fast forward to 1981 in his senior year of college when Michael decided to start a valet parking business in San Diego, CA. He shared the idea with his two best friends who took hold of this opportunity and started their own valet businesses in Hartford and Boston.

Michael began by serving three beach-side restaurants, Alan with a single location at a restaurant in downtown Hartford and Jeff with a nightclub and surface parking lot in downtown Boston. Two years later, Jeff and Al merged their Hartford and Boston-based companies to form LAZ Parking. Meanwhile Michael continued to operate independently on the West Coast under the brand of Sunset Parking. Over the years, the three friends consulted with each other and shared their many experiences and philosophies, growing their companies side by side into leaders in their respective markets.

By 2006, LAZ Parking had become a significant regional player on the East Coast when they secured one of the largest parking contracts in the nation – the City of Chicago's Millennium Park Garages. This caught the eye of Indigo [formerly VINCI Park], one of the world's largest parking firms that wanted to invest in a U.S.-based parking company.

In 2007, Indigo [formerly VINCI Park] acquired a 50% interest in LAZ, which then formally acquired Sunset and the three friends merged their companies and cultures to form the LAZ Parking of today. The combination of lifelong friendship, a people-focused philosophy and the financial backing of Indigo [formerly VINCI Park], has been the fuel that has allowed the company to triple in size over just four years.

Through the combination of strategic acquisitions of Classified Parking, Apex Parking, Ultimate Parking, Interpark's operations in the Mid-Atlantic region, AlphaPark, VPS, and most recently Serco's Parking Services, LAZ has grown into one of the largest parking companies in America.

Today LAZ operates over a million parking spaces in thousands of locations across the country, including many of the original locations we started back in 1981. Nearly four decades later, our founders and their original values continue to guide the LAZ Parking of today. With a laser-focused mission to "Create Opportunities for Our Employees and Value for Our Clients" we are passionately committed to living up to "The LAZ Way."

The LAZ Way:

In order to strengthen LAZ's corporate culture, and allow its roots to grow deeper, we have decided to simplify our message and rededicate ourselves to spreading the word on who we are and what is important to us. To accomplish this, we have come up with our MVP Program – which stands for Mission, Values and Practices. We have discovered that our company's success is the result of living this Mission. The Mission is important to all of our employees and important for our CLIENTS.

Mission

Our company mission is "Create opportunities for our employees and value for our clients"

Create Opportunities for Employees. We are not only providing a job for our employees, but myriad other opportunities to grow and advance. LAZ is proud of its employees and their commitment to the company ... many of whom have spent their entire careers within our organization.

Create Value for Our Clients. We know our clients can select LAZ Parking from a variety of organizations and companies to manage their parking and service needs. Likewise, our customers have many choices about where to park their cars. We want to create value for clients and customers so that they always choose to do business with us. We can create value by giving honest and dependable service, providing clean and well-maintained facilities, and maximizing the profitability of every location.

Values

Values are the rules we play by or the non-negotiable behaviors we are committed to following. LAZ Parking upholds the following four core values. 1) Respect for Each Individual, 2) Commitment to People, 3) Honesty & Integrity in All Situations, and 4) Trust. Each of these values is a cornerstone of our culture and we are committed to living up to and communicating them to all our team members.

Practices

Practices are the key operating standards that ensure we will deliver consistent high-quality service for our clients and their guests. They are:

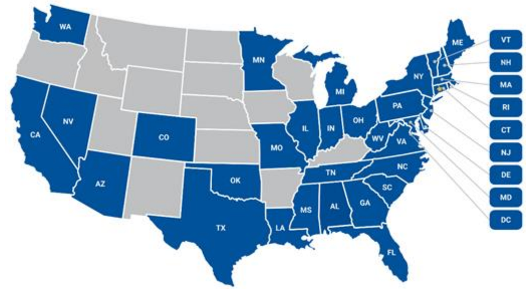
- Look Sharp and Be on Time
- GET 100 (Greet – Engage – Thank our visitors 100% of the time)
- Practice GENI (Greeting – Eye Contact – Name Recognition & Impress Someone)
- Be Obsessed with Safety, Security and Cleanliness

These practices (and the training guidelines we used to support them) are the benchmarks by which we evaluate the quality of our service. By consistently living up to our MVP Program, we will provide our valued employees the opportunity for personal growth and economic reward while ensuring success and profitability.

LAZ Fast Facts:

LAZ Parking Fast Facts	
Founded:	1981
Number of Locations:	Over 3,150
Number of Parking Spaces:	Over 1.2 Million
Annual Managed Revenues:	$1.4 Billion
Number of Employees:	13,450
States / Cities:	35 / 442
Portfolio Mix:	Managed, Leased, and Owned
Service Lines: 05-06-2021	Hospitality & Valet, Office Buildings, Medical & Hospital, Airport & Transportation, Campus, Government & Municipal, Retail & Mixed-Use, Event Parking, Residential Buildings, and Shuttle Services

Government and Municipal Experience



LAZ Parking is one of the nation's premier operators specializing in parking services for municipalities and government agencies. Our Government Services Division is led by a team of dedicated professionals with over 75 years of government parking experience. This affords us a nuanced understanding of the balance that government agencies must achieve between public accountability and service to the community.

Our comprehensive approach to parking management provides sustainable solutions that enhance communities, streamline parking operations, and improve the financial position for our clients.

The LAZ Parking team has an unmatched track record operating municipal parking facilities and on-street programs managing more than 400,000 parking spaces for federal, state and local government agencies. We have a very keen focus on implementing efficient operational procedures, dynamic marketing campaigns, revenue integrity systems, revolutionary technology applications and best-in-class customer service initiatives.

In addition to our national government portfolio, our local team has been supporting the City of Arvada since 2016, in addition to several other municipalities within the region including the City of Westminster and the State of Colorado. The following is a sampling of LAZ Parking's public sector clients, including the approximate number of spaces for each. Case study and reference information for select clients has also been provided in on the following pages.

- Washington Metro Area Transit Authority (59,000)
- City of Chicago Meters System (36,000)
- City of San Francisco Meters (28,800)
- New York City Housing Authority (20,600)
- NY Metropolitan Transit Authority (16,600)
- City of Long Beach, CA (10,300)
- Montgomery County, MD (10,250)
- City of Inglewood, CA (10,000)
- Rhode Island State Beaches (8,100)
- City of Kansas City, MO (6,600)
- City of Stockton, CA (6,145)
- City of Miami Beach, FL (6,000)
- City of New Rochelle, NY (5,868)
- City of Lowell, MA (5,566)
- Norwalk Parking Authority (3,763)
- City of Stamford, CT (3,400)
- City of West Hollywood, CA (3,360)
- San Francisco Municipal Transportation Authority (3,114)
- California State Parks (2,664)
- City of Syracuse, NY (2,525)
- City of Inglewood, CA (2,500)
- Alameda County, CA (2,500)
- City of Wilkes-Barre, PA (2,453)
- City of New London, CT (2,210)
- Delaware Transit Authority (2,200)
- Schenectady Redevelopment Authority (2,200)
- Volusia County, FL (2,100)
- City of Las Vegas, NV (1,866)

Municipal References

Reference information has been provided for three relevant municipal projects including the City of Westminster, CO; the City of New Rochelle, NY and the City of Norwalk, CT, one of our longest standing municipal clients. This information is also contained within the City's Reference Form that was included in the RFP. Several other projects are included as information. Additional reference information can also be made available on request.

City of Westminster
WESTMINSTER, CO

LAZ Parking was selected by the City of Westminster to manage their parking operations in 2019. They began operations in January 2020, including the daily management of the garage in Downtown Westminster and the RTD Light Rail Parking Area. LAZ is responsible for the comprehensive management of the City's parking system. LAZ Parking has provided consulting and parking expert services to help the City of Westminster develop their Downtown area.

LAZ Parking employees a team of parking ambassadors and porters to ensure the City's parking areas remain controlled and clean. As the City continues to develop the Downtown area, it will be LAZ Parking's key role to help transition the parking to a parking and enforced system, while maintaining the customer-oriented service that the City desires.

The Westminster parking areas serve a diverse set of needs from the RTD light-rail customers, to the restaurant-goers, retail shoppers and residents that continue to migrate to this exciting area of the City.

Wady Burgos,
Parking and Transportation Demand Coordinator
(303) 658-2121
wburgos@cityofwestminster.us

Date
January 2020

Total Space Count
2,800

Physical Layout
Two Garages
5 Surface Lots
On-Street Parking
Enforcement

Equipment
Pay-on-Foot Stations
Pay-by-Plate Stations
Credit Card Meters
Pay-by-Cell
LPR Enforcement

Date
January 2011

Total Space Count
6,000

Physical Layout
Two Garages
15 Surface Lots
1,000 On-Street Spaces

Equipment
Flowbird CWT Meters
Genetec LPR Enforcement
Passport Enforcement (CDI)
Park Mobile

Staffing
16

City of New Rochelle
NEW ROCHELLE, NY

LAZ Parking assumed parking management services at the New Roc Garage in New Rochelle in January 2011. In 2015, partially due to the superior work at New Roc, LAZ was awarded the full contract to provide parking operations, enforcement, and management services for the City of New Rochelle. The New Rochelle portfolio includes approximately 6,000 spaces located within 15 surface lots, two garages and over 1,000 on-street metered spaces.

Upon contract start, working with the City, LAZ made significant technology recommendations throughout the parking system. LAZ oversaw a $1 million project installing more than 150 digital multi-space meters, replacing the older single-space meters. In addition, LAZ also launched a full-service customer experience, with customer service representatives on-site and remote access to the LAZ Customer Care Center.

LAZ has increased maintenance levels in the parking facilities, including painting, restriping, snow removal, landscape improvements and the installation of custom landmark signs in each of the surface lots.

LAZ provided a valet pilot program for the City in 2015 and has consulted on numerous added-value services, including online marketing, website management and shuttle services.

LAZ prides itself on its close working relationship with the City Commissioner, City Manager and residents, cemented through weekly meetings and constant communication throughout the municipal network.

Todd Castaldo, Department of Development
(914) 654-2190
tcalstald@newrochelleny.com
515 North Avenue, New Rochelle, NY 10801

City of Norwalk
NORWALK, CT

LAZ Parking was selected by the City of Norwalk to manage their parking operations in April of 2004. In addition to the daily management of the on- and off-street parking system, LAZ is responsible for the comprehensive management of the City's parking citation system. LAZ provides a turnkey parking citation management program, which uses a mix of Parking Enforcement Officers from the City and LAZ employees.

LAZ has increased revenues for the City by over $2.7 million over the past 14 years, turning the operation from one that was unprofitable and subsidized by taxpayers to a profitable operation able to reinvest in the parking infrastructure and into the community. We did so through automation, technology improvements, innovative enforcement and close communication between the City and our management team.

Following a competitive process in which the country's largest and most prominent parking firms submitted proposals, LAZ Parking was awarded a five-year contract renewal and a subsequent extension in 2013 to implement a Smart Parking technology initiative, including equipment upgrades, space sensors, facility count space utilization, expansion of pay-by-cell usage, movement to pay-by-plate modes of operation, expanding LPR enforcement and capturing of parking data for business analytics.

These locations serve the Maritime Aquarium, Amtrak and Metro-North rail passengers, retail businesses, residential communities, special events and local valet operations.

Kathryn Hebert, Executive Director (Retired)
(203) 994-3408
Khebert601@gmail.com

Date
April 2004

Total Space Count
4,000

Physical Layout
Four Garages
Eight Surface Lots
On-Street Parking
Enforcement

Equipment
Gated Systems
Pay-on-Foot Stations
Pay-by-Plate Stations
Credit Card Meters
Pay-by-Cell
LPR Enforcement
Space Sensors
Real-Time Space Availability

Gross Revenues
$6.9 Million

Date
February 2009

Total Space Count
36,000

Physical Layout
On-Street Parking
Enforcement

Equipment
4,700 Cale Pay Stations
Passport Mobile Payments

Staffing
Provided upon request

Gross Revenues
Provided upon request

Chicago On-Street Metered Parking System
CHICAGO, IL

LAZ provides 24/7 management of the City of Chicago's on-street parking meter system, including supplemental parking enforcement services on behalf of the City. The Chicago on-street system is one of the largest parking systems in the world and the third largest on-street system in the United States. In 2009, the City received an up-front payment of $1.157 billion for a 75-year concession lease which LAZ operates under a management contract with the concessionaire.

Because LAZ operates the entire system under a management contract for private investors, the efficiency of the equipment and personnel is critical to a successful and profitable operation.

The old system consisted of 36,000 outdated, malfunctioning, single-space parking meters. LAZ developed and released a detailed RFP to equipment vendors on behalf of the concessionaire. Once the contract was awarded, LAZ upgraded over 90% of the existing system with 4,200 pay stations in just seven months – the fastest technology upgrade of its kind ever undertaken anywhere in the world. The system is now 100% pay station-controlled with a system-wide average up-time of 99.64% across 4,700 pay stations. LAZ collects and deposits nearly $12 million each month from the system on behalf of our client.

Recently, mobile payments have been introduced in partnership with Passport (www.parkchicago.com). Thanks to our joint marketing efforts, adoption of mobile payments in the system has exceeded 20% in the first three months alone and continues to grow.

Date
January 2018

Total Space Count
7,600+

Physical Layout
On-Street Spaces (1,500)
Five Garages

Equipment
Duncan
IPS
Tiba

Staffing
30

Gross Revenues
$5.5 Million

City of Kansas City
KANSAS CITY, MO

In January 2018, LAZ Parking began day-to-day operations of over 1,500 on-street metered spaces for the City of Kansas City after successfully winning the contract through a highly competitive RFP process.

Upon contract start, LAZ assumed all maintenance and revenue collection duties for the on-street system which processes more than $1 million in revenue annually. LAZ also assists as a consultant to coordinate the replacement of the system's single-space meters with the installation of IPS multi-space pay stations. 11 pay stations have been installed so far in several key locations throughout the city, with more to be added in the near future. Furthermore, LAZ developed the ParkSmartKC initiative which provides a common payment platform and provides information and other parking resources to users.

In August 2019, partially due to the exceptional operational success of their on-street parking system, the City awarded LAZ an additional contract to operate five City-owned garages, consisting of over 6,100 spaces which generate more than $4.5 million in revenue annually. LAZ provides 24/7 operational support and staffing to the facilities, and immediately began to streamline operations with automated systems, including call center support, monthly parking signup and account management. The ParkSmartKC initiative was also integrated into the operations of the off-street facilities.

LAZ employees also oversee traffic flow management for access to the garages during the many special events at the Kauffman Center for the Performing Arts and KCMO Conventions and Events, which regularly uses these highly desirable parking locations.

Date
November 2017

Total Space Count
10,292

Physical Layout
Nine Garages
19 Surface Lots

Equipment
T2
LUKE Pay Stations
Skidata (Fully automated with a central command center)
IPS Meters
LAZ BI

Staffing
35

City of Long Beach
LONG BEACH, CA

In November of 2017, LAZ Parking was selected to provide citywide parking operations and management services for the City of Long Beach. Our largest municipality in California has a portfolio that includes approximately 10,300 spaces located within 28 parking facilities.

Upon contract start, LAZ made significant technology advancements throughout the system, adding 16 new pay stations to the surface lots, implementing pre-sold reservations through LAZgo and overseeing the installation of a $1.2 million project to modernize and automate three downtown garages with a state-of-the-art Parking Access and Revenue Control Systems (PARCS). LAZ also launched a central command center, allowing for remote management of the entire system.

LAZ has increased maintenance levels in the parking facilities, including painting, restriping, landscape improvements and the complete refurbishment of electrical signage. LAZ has added a high-level manager and increased training to the parking ambassadors, which is a critical component of the program. Other enhancements include a new website that was recently launched which provides parking information and allows for online permit sales for both monthly parking and the city's preferred beach parking program. LAZ also provides special event services for the City and assists with major events in the area, including The Grand Prix, AMGEN Tour of California, Long Beach Marathon and concerts and events at the Queen Mary.

Recently, LAZ was awarded an additional contract to provide a Business Intelligence (BI) system fully integrating all transactional data from the City's parking system within one dynamic reporting system.

Date
August 2006

Total Space Count
1,400

Physical Layout
On-Street Parking
Pay Stations
Enforcement
One Garage
One Surface Lot

Equipment
Digital Payment Technology
Duncan
Enforcement Technologies

Staffing
7

Gross Revenues
$2,377,500

City of South Miami
SOUTH MIAMI, FL

LAZ Parking was selected to manage garage, on-street meter and enforcement parking systems for the City of South Miami in August 2006. The operation includes maintaining, collecting and enforcing 1,400 on-street metered parking spaces, as well as a garage and surface lots controlled through pay stations.

South Miami is heavily dependent on tourism and requires a parking management system that is productive, yet customer-friendly, fair and equitable. LAZ works closely with the City to operate a system that provides exemplary services to residents and guests. While on average 60,000 parking violations are issued annually in South Miami, the city is not perceived as “a parking trap”, primarily because the City and LAZ have partnered to create a balanced and efficient parking organization which is first and foremost customer-centric.

LAZ works closely with the City and the local business community to market the value of convenient and available curbside parking spaces in front of shops and offices. Because on-street parking is a shared resource, emphasis is placed on changing the typical merchant perception of “parking in front of my store” to “parking in front of our stores”.

The City has tasked LAZ with upgrading their parking meter system with state-of-the-art pay stations and introducing, mobile payments and electric vehicle charging stations.

California State Parks
SAN DIEGO COUNTY AND MALIBU, CA

LAZ Parking was selected to manage parking operations for the California State Parks in San Diego County in 2010. The initial contract included the Tamarack State Beach Lot, which had historically been a free parking area, but was being transitioned to a paid parking facility. LAZ offered both immediate and long-term solutions to address media inquiries and the longtime constituents that were opposed to the change and successfully implemented a pay-and-display system which not only generated revenue for the department but provided a more agreeable hourly parking rate for visitors.

LAZ was then awarded the remaining seven day-use lots throughout San Diego County. LAZ installed brand new, wireless, solar-powered pay stations in each facility. For lots with high visitation, LAZ committed to continue staffing the entrance kiosks to serve the public and collect parking fees, and immediately brought in new wireless cashier controls to better monitor usage, regulate passes, and allow for increased flexibility of rates and special event options. With this added flexibility, the San Diego District was able to try new pricing options to maximize revenue during peak days/times and provide more agreeable rates during off peak and slower times.

After the successful conversion of the San Diego County lots, LAZ Parking was awarded the contract to manage six additional surface lots in Malibu.

LAZ employees were trained to be deputized by the State to write citations and enforce the State's vehicle code. This, plus the new pay stations, enabled the State to realize the effects of both a rate increase and a far greater compliance rate of motorists, increasing revenue 57% over the previous period.

Date
February 2010

Total Space Count
2,664

Physical Layout
Eight Surface Lots (San Diego)
Six Surface Lots (Malibu)

Equipment
Pay & Display (Digital Payment Technologies)
Entrance Kiosks (iParq)

Staffing
6-16

DETAILS OF PROPOSAL

LAZ Parking takes a holistic, consultative approach towards management of our projects. In the spirit of a true partnership, we aim to meet the specific needs of your operation and all stakeholders. With our deep understanding of the parking challenges and needs at Olde Town Arvada, we have outlined the following operating plan.

Staffing and Management Plan

We are aware that the LAZ Parking team will continue working hand-in-hand with the Arvada Police Department to enforce the six blocks in Olde Town Arvada. Given this important partnership, we will allocate an experienced LAZ Parking manager to be the single point of contact for the police department and City. The manager will be responsible for maintaining all rules and regulations of the contract, executing the agreed upon operating plan, managing the staff involved with this project, and attending regular meetings or as needed per the City's requirements.

We anticipate the need for at least one full time enforcement attendant, and an additional part-time employee. These attendants will be well-trained and uniformed LAZ employees.

The proposed project manager, Patrick Conaway, will have additional support and oversight from the Denver-based Director of Operations - Veronica Sloan, and the General Manager - Max Fuller. Patrick, Veronica and Max are actively involved in the day-to-day operations and attend rhythm meetings with all project managers to ensure that property performance and service goals are being met. Additionally, the Regional Vice President - Chris Conley, overseeing the Colorado market, will be involved and provide necessary support and resources to ensure the overall success of the project. LAZ Parking's national government support team will also continue to support the City providing on-going consultation and support services for the local team. The following is an overview of our executive team that will continue to support Arvada.

Chris Conley | Regional Vice President, Colorado

Chris Conley joined the LAZ Parking family in 2018 as the Regional Vice President for Colorado and Missouri, bringing 36 successful years of experience in the parking industry to LAZ. Chris has operated virtually every type of parking operation, including airports, large retail and shopping centers, mixed-use developments, municipal and commercial operations. He is dedicated to maximizing the client's revenue and customer service experience in conjunction with improving the financial stability of LAZ's operating results.

Chris oversees the daily operations as well as other administrative functions in Colorado. He previously served in an executive role with a large national parking and transportation management organization and has been an active member of B.O.M.A. for over 20 years. He has a B.S. Degree in Business Management from Metropolitan State University in Denver.

Rob Maroney | Vice President Municipal Services

Rob Maroney plays a vital role in our Public Private Partnership efforts and serves LAZ Parking's numerous public agency clients. He has been a member of the parking and transportation profession for over 15 years and brings extensive experience in parking operations and transportation management for government agencies. Prior to joining LAZ, Rob was the Director of Parking and Transportation for Virginia Commonwealth University overseeing the university's parking, transportation and fleet management programs. Earlier in his career, Rob was responsible for one of the largest municipally owned parking systems in the United States.

In 2014, Rob successfully completed the CAPP Program, the most respected professional credential in the parking industry. He currently serves as the Vice President of the Board of Directors for the Parking Association of the Virginias and is an active member of several national and regional parking associations.

Muhammad Mansoor | Vice President Government Operations
Role: Curbside Management and On Street Technology Expert

A familiar name in the parking industry, Muhammad Mansoor serves as the subject matter expert for LAZ Parking's Government Services. During his 20-year parking career, Muhammad has led the implementation of cutting-edge technology and helped cities develop the state of design tools and redefine transportation practices to transform urban spaces into urban places. He started his parking career with Central Parking System in 2001. While at Central, he had full responsibility for the Southwest region, which included the municipal parking programs of Newport Beach, Santa Ana, Long Beach, Anaheim, Carson, Riverside and the Transportation Corridor Agencies (TCA). During the past 10 years, Muhammad has led many complex parking programs, including Inglewood, Palo Alto, Salinas, Alhambra, San Mateo, Santa Ana and Sausalito. Other nationally recognized parking programs under Muhammad's portfolio include parking and curbside management programs for cities of San Francisco, Chicago, West Hollywood, and Montgomery County.

In his current role, Muhammad ensures high-quality service delivery across LAZ's government services parking contracts and has direct responsibility over the operational and strategic decisions for all On Street parking contracts throughout the U.S. He leads LAZ's parking services Center of Excellence (CoE) where he applies best practices, consistent approaches, industry trends, and new technologies across the many municipal parking programs. As a subject matter expert across a broad range of parking programs, Muhammad is often called on to assess operational efficiencies and the application of new technologies. He has assisted multiple cities with developing and managing citizen centered programs and has helped with policy development for lasting impact.

Muhammad is an active member of IPMI, NPA and various regional parking organizations. He is also a Six Sigma Yellow Belt recipient.

Parking Enforcement Overview – Creating a "Culture of Compliance"

LAZ Parking is privileged to be the parking partner for many diverse municipalities and government agencies across the country. Our experience ranges from the local municipalities of Arvada and Westminster to the City of Chicago, IL, the third largest on-street parking program in the U.S. with over 38,000 spaces. As such, we have the necessary experience and knowledge base to effectively and efficiently manage on-street parking enforcement for the City of Arvada. LAZ Parking is experienced in providing parking enforcement services for our clients using a wide variation of operating procedures and technology. While in some cases our primary focus is on payment and permit compliance, at many municipal locations we enforce other parking regulations such as time restrictions and public safety related ordinances such as crosswalks, fire hydrants, bus stops and no parking zones. The following is provided as an overview of our Parking Enforcement Philosophy.

Parking Enforcement is an essential function of any on-street parking system. However, a successful parking enforcement program should not be defined solely by the volume of citations issued or revenue generated through parking violations. At LAZ, we take a comprehensive approach, utilizing our national experience and best industry practices to create a culture of compliance. The ultimate goal of improved payment compliance and adherence to time restrictions is to generate turnover of the highest demanded parking spaces within the central business district.

The following highlights the components of our approach.

- **Customer-Centric Approach to Parking Enforcement –** LAZ's commitment is to provide a customer-centric approach to parking enforcement. Unlike traditional parking enforcement programs, our approach focuses on public education as well as business and community outreach, fostering increased compliance without alienating us from the community.

  LAZ will provide a team of parking enforcement ambassadors that will not only be trained on the fundamentals of customer service, but it will also provide a uniformed and highly visible presence for aiding citizens and visitors every day. Some typical examples of our enforcement services include:

  - Providing brochures, directions or a map to someone looking for a particular place of interest (e.g., Restaurant, Administration, Library, etc.).
  - Aiding customers with changing flat tires or jump starting a dead battery.
  - Calling for Police assistance or reporting suspicious activity.
  - Providing a friendly explanation of why a vehicle received a ticket.
  - Explaining the appeals process to a citizen or visitor that received a ticket.
  - Visiting merchants to discuss any problems or concerns in a proactive and professional manner.
  - Actively participating in merchant association and civic meetings.

Another part of our customer-centric approach will be providing an administrative review process to address citations that may be unwarranted. This administrative review will allow us to correct matters associated with inadequate signage, malfunctioning meters, handicap parking and similar violations that should not burden the courts.

- **Enforcement Transition** – Should the City desire to move from timed enforcement to payment enforcement, LAZ Parking and Passport have the capabilities, experience, and staffing bandwidth to help the transition run smoothly.
- **Additional Enforcement Zones** – As stated in the RP, the City wishes to add additional zones onto the current scope of enforcement and management. LAZ Parking went on-site and performed timed routes to decide whether additional vehicles and/or staff will be needed to successfully operate with the addition. After much time and discussion, we are convinced that we can oversee the additional zones with the current structure, and therefore have not added any additional staff or expenses for this transition.
- **Curb Management** – Consolidating all on-street parking management functions, including revenue collections, meter maintenance, and parking enforcement, will improve communication and collaboration between various team members, allowing for a higher up-time of meters and subsequent payment compliance.
- **Dynamic Routing** – Routine patrols are predictable. LAZ will provide dynamic routing procedures based on multiple inputs that are designed to maximize efficiency and effectiveness of enforcement officers. Several factors include:

    - **Curb Analysis and Mapping**: As part of LAZ's commitment, we will complete a full audit of the current street conditions, including signage, time zones, no parking zones, loading zones, streetcar risks, ADA parking, etc. All of these factors will be contained in a digital map that will guide LAZ's enforcement efforts.
    - **Occupancy and Compliance Reporting**: Our enforcement effort will include recording and reporting on key data sets, such as on-street occupancy and payment compliance by block.
    - **Data/Predictive Analytics**: Using information from enforcement systems, and occupancy and compliance reports, we will be able to continuously refine and refocus our parking enforcement efforts. This analytic effort will be enhanced in the future should the City transition to paid parking and install new digital parking meters.
    - **Heat Mapping and Officer Tracking**: Our systems include state-of-the-art reporting and monitoring of all officer activities.

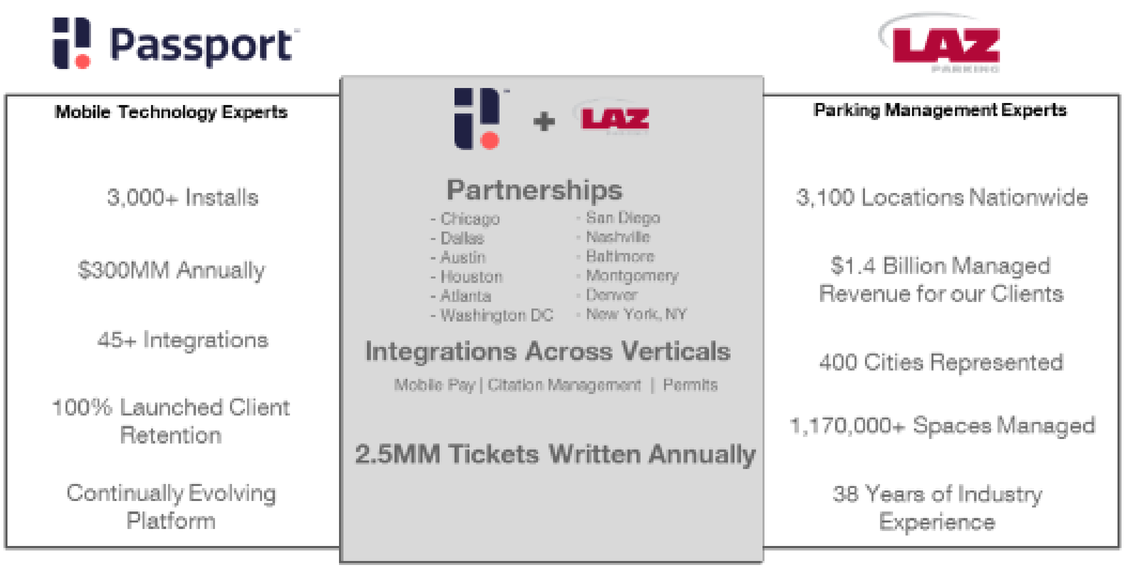
Live Officer Tracking

Heat Mapping

- **Technology Implementation and Enhancement** – LAZ Parking has provided the City of Arvada a best-in-class fully-integrated parking enforcement system, including a Citation Management System with an Online Payment, Permitting, and Appeals System. These components have been fully integrated with the Mobile and Fixed License Plate Recognition (LPR) System. Our commitment to the City of Arvada is to continue to implement cutting edge technology to continue to advance the City's parking enforcement programs.

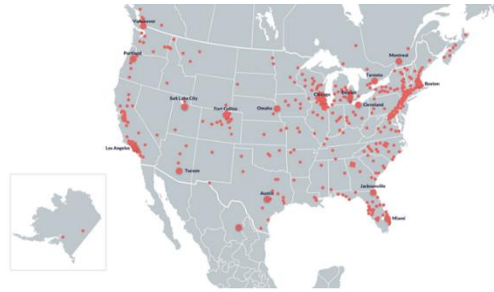
Passport - Citation Management System
LAZ is again partnering with Passport to provide a fully automated citation management system. LAZ has partnered with Passport in many areas throughout the country to offer state-of-the-art, mobile-pay, citation management systems for our clients. Our team will continue to provide a flexible and dynamic solution to the parking system, allowing you to easily take advantage of cloud-based software technology to streamline services, reduce time and costs, and increase collection rates. Passport's Citation Management Platform has been built on an open Application Program Interface ("API"), which means that it is capable of integrating with any other software provider within the parking ecosystem.

There is no better team in technology and management as illustrated below:



Passport Overview

Passport has over 250 employees and has consistently grown to match its expanding client base. Passport is headquartered in Charlotte, NC with an additional office in Tarrytown, NY. Passport is a transportation software company, transforming mobility management for cities and empowering them to create more livable and equitable communities. The Passport Operating System enables clients to digitally coordinate many modes of transportation and implement real-time, data-centric management of their curbside and street space. With Passport, City leaders can increase convenience, efficiency, and compliance all while providing a simplified parking experience. Cities, universities, and agencies all across North America trust in Passport's streamlined and innovative SaaS solutions and management expertise. Passport currently serves **over 1,200 clients**, is implemented in **more than 5,000 locations,** supports over **14.3 million end users,** has processed over **2 billion transactions** to date between mobile parking sessions and citation payments, and brings ***over 30 years of experience*** in parking technology.



From its beginning, Passport has adapted its solutions to meet the changing needs of both its clients and the communities they serve. Passport is an end-to-end operating system for managing parking, enforcement, permitting, LPR, and integrated payments. The Passport Operating System unlocks an open ecosystem model for parking that allows cities to increase revenue and payment compliance by allowing parkers to pay seamlessly for parking, citations, or permits. Passport's suite of mobility solutions proudly serves some of North America's largest cities including Chicago, IL, Toronto, ON, and Boston, MA.

Passport's experience across its diverse client base has fortified its knowledge in understanding how cities interact amongst many moving parts. Beyond the understanding how to best deliver the applications and systems themselves, these thousands of implementations have given Passport and its teams unmatched experience in parking policy, payment processing, billing/invoicing, integrated technology, and executing external partnerships on a national level.

Enforcement & Citation Management Experience

Passport is constantly pushing the pace of innovation and will continue to challenge traditional solutions in ways that simplify experiences and create value for its clients and their customers. Passport's enforcement and citation management technology is no different. Passport has been providing clients with its citation management solution since February 2013. Since its acquisition of Complus Data Solutions, Passport brings over 30 years of experience to its clients with the most robust software offering in the industry. Today, Passport provides clients with the industry's most innovative means of ensuring parking compliance.

Enforcement officers are equipped with the latest technology to easily monitor paid parking and time restrictions through digital chalking, citation issuance, and so much more. Passport allows its users to access its cloud-based software on any browser and adjusts automatically for role-based access, facilitating a user-experience that streamlines workflows and creates a more efficient operation across all job functions within the parking environment.

Mobile Pay Parking Experience

Passport has been providing clients, like Arvada, with its mobile payment's solution for the past decade. Passport brings experience to its clients with the most robust software offering in the industry. Passport has worked in partnership with Arvada since 2016 and is excited at the opportunity to continue to grow that partnership.

Passport has helped revolutionize the public-private relationship between municipalities and its citizens as it relates to parking and city mobility, bringing increased transparency, efficiency, and innovation to parking operations. Passport's mobile pay parking application has been installed in over 5,000 locations. Through these experiences, Passport has learned a myriad of best practices to deliver the highest quality products and services to cities like Greeley, Kansas City, Cheyenne, and Topeka.

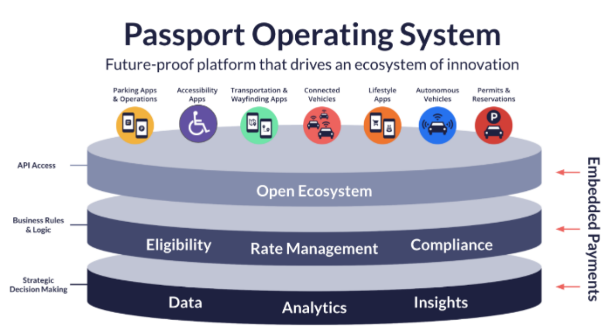
Passport Operating System

Passport has been a player in the parking and transportation industry since its inception in 2010. Over the past decade, Passport has applied its extensive mobile payments experience to develop additional product lines, helping communities solve tough mobility issues. Passport's tenure as a company has uniquely prepared it to become a true end-to-end parking management solution. By creating and revamping technology, absorbing client feedback, and studying industry trends, Passport has been able to create an Operating System that allows cities to effectively manage multiple mobile pay parking applications at once.

The Passport Operating System reduces operational complexity by housing all rules, rates, and restrictions in a centralized portal which ultimately controls the entire parking environment using public and standardized APIs. This means that cities can implement changes (e.g. rate change, zone closure, etc.) that will update universally across all integrated vendors, instead of working in silos to edit each individual application. In addition to programming the rates and policies by which approved partner applications will abide, the Passport Operating System will also aggregate transaction data across all connected vendors, empowering the City to gain insights into an entire operation. This setup empowers cities to boost payment compliance for parking, further digitize the parking environment, future-proof for upcoming innovations, and improve the overall user experience.

This is just the beginning, with the Passport Operating System, users have the ability to transact via any onboarded payment partner made available by the City. Passport has a number of partnerships already in place including Google Maps, PlusPass, Papaya Pay, and iAccess Life, with many more exciting developments on the horizon. The Passport Operating System provides unmatched benefits and convenience for both City stakeholders and the community of citizens and visitors that they are serving.

The Passport Operating System also helps City customers by creating a more enjoyable environment for people moving about the city. People expect a frictionless, secure, and reliable experience as they transact in their communities. Passport's system provides extraordinary customer convenience by allowing customers to choose any (authorized) partner/application to move in and out of cities such as transportation & wayfinding applications, accessibility apps, in-dash systems within their connected vehicles, popular retail and lifestyle applications, or traditional parking apps – many of which are likely already downloaded onto their phones.



Enforcement Expansion

Passport's architecture was built on the premise that innovation is key to providing a modern, flexible and expandable system that will continue to meet the needs of an evolving industry. To that end, Passport is constantly working to develop state-of-the-art features to meet future expectations. Our modular and highly integrable system gives you the ability to add services when the need arises without changing your entire system.

By continuing to use Passport as a parking technology partner, the City will also be choosing Passport's evolving capabilities of an open parking ecosystem. With Passport, the City has seen a 64% increase in citation issuance and payments combined. Passport will continue to partner with the City as it looks to digitize the curb, providing a foundation for faster innovation in mobility, drive economic growth, and assist in making Arvada a desirable destination for all people to live, work, play, and visit.

Employee Hiring, Screening, and Training

At LAZ, we put people first. It's not just about hiring the best. We get to know our employees and what they want to do as they grow their careers into the future. Most of our senior management team members began on the front line, parking cars and learning the business from the ground up. We strongly believe in the culture of our company and community spirit of our employees. We don't just provide jobs; we help employees create careers. In this spirit, we are able to nurture our most important asset, our people. In fact, we believe so strongly in people that we don't have a "Human Resources Department" at LAZ – we have the LAZ "People + Culture" team.

We take pride in nurturing the talent inherent in our employees so that they can provide our clients and customers with the highest levels of service. Our mission starts with "creating opportunities for employees" and we do that by giving them the tools and resources to develop and grow their careers.

LAZ Parking will hire, train, schedule, and manage all employees necessary for the proper and efficient operation of your parking facility. The Parking Manager, along with LAZ Parking's People and Culture Department, will have full discretion in the hiring and discharge of employees. Of course, property managers and/or clients always have the opportunity to interview and approve talent if/as needed.

Preliminary Pre-Interview Screening

LAZ Parking often uses a professional telephone interviewing experience to pre-screen candidates before they are invited for formal interviews. Hiring managers know how to narrow down their potential pools of applicants to qualified individuals and our recruiting teams know how to thoroughly check employment and personal references.

Interviewing Process

Our interviewing process is robust and helps us to retain qualified employees for the long-term, which, in addition to reducing turnover costs, gives our clients and parking customers the opportunity to establish the personal relationships and trust that facilitates a successful and profitable parking operation. All candidates are interviewed by a LAZ "talent scout" (aka "recruiter") from our People and Culture team, as well as various hiring managers as appropriate and based on location/position. We use questions during the interview process that allow us to determine if people will demonstrate the right skills and aptitude to perform well at their jobs.

Background Checks and Drug Tests
All candidates are required to successfully pass a criminal background check to be hired at LAZ Parking, as well as drug and motor vehicle record verification (for driving positions). We utilize third-party vendors to perform these pre-hiring assessments which apply to all levels of hiring, including management.

Government Required Background Checks and Credentialing
LAZ will coordinate with the City of Arvada to ensure each employee undergo the required background check and credentialing process. While a waiver has been granted to accommodate the transition schedule, LAZ will commit to completing the required LADOT Live Scan confirmation process.

Onboarding New Employees
Our cutting-edge New Hire Concierge Desk is a team of Hiring Coordinators who take all of our candidates through the paperwork required for onboarding at LAZ Parking. This team is dedicated to serving the needs of our new hires and is responsible for the successful hiring of more than 8,000 people each year. Their focus is getting people hired as efficiently as possible and we know from our ongoing new hire satisfaction surveys that, as a result of their amazing service, people are extremely satisfied with the process (and we rarely lose anyone along the way!).

Initial Employment
Anyone hired to work at LAZ Parking is required to participate in an orientation program that covers company policies, procedures, ethical obligations, and employee benefits. In addition, we have a variety of courses, classes, and activities that are part of an initial onboarding program which we affectionately call "The New You-ser Program: Putting Your Career in Drive", and employees spend their first 90 days learning about culture, processes, and work requirements in a fun, streamlined, and interactive way.

LAZ-ification Training
We take great pride in our corporate culture and values. To help maintain the spirit of LAZ throughout the country, employees participate in an interactive training session that teaches employees how to demonstrate the LAZ values of Commitment to People, Respect, Honesty and Integrity, and Trust.

Employee Training and Development

LAZ University
At LAZ, investing in our employees is one of our highest priorities. That's why we offer learning programs and even scholarships to help people grow both professionally and personally. Topics vary and include everything from leadership development, to health and wellness, to safety, to technology, and we're adding courses so often that there is never a lack of learning opportunities for LAZ employees. Our online university includes 100+ on-demand, cutting-edge, interactive courses and that number continues to grow.

Our library of learning choices also includes live video and in-person classes, leadership and management programs, and even industry certifications, such as the Certified Parking Professional (CPP). Basically, if employees want to learn, we want to give them the chance to do it! In fact, every employee also has access to sign up for FREE career coaching with some of our highest level, most talented LAZ leaders.

LAZ University was rated #38 on eLearning Magazine's top 100 list of companies for e-learning in 2014. Because LAZ has thousands of employees in diverse roles across the country, we recognize the need for flexibility in how our people take in information and at what times. There are two main ways to take coursework at LAZ University:

1. **À La Carte:** LAZ employees may choose certain courses, eLearning lessons, or self-directed activities and take these one at a time. This allows for maximum flexibility and can be especially helpful in filling in knowledge gaps or adding skills that the employee may be missing. Employees also re-take courses where they may have become “rusty” from not being involved in that aspect of the business for some time. Others have most of the necessary skills and knowledge but need a refresher when changing job roles within LAZ.
2. **Programs:** The most comprehensive way to learn and develop, programs are groups of different courses that go together and cross various topics. The topics in these streams are carefully selected for specific job roles and levels.

Employees participating in programs are held accountable for completion of courses and activities and they receive a formal certificate and graduation ceremony. Benefits of learning in this manner include:

- Receiving one-on-one coaching in a chosen area of expertise.
- Coursework is cohesive and tailored to a specific job role or level.
- Students experience collaboration with classmates, as well as on-the job activities.
- Students take classes, go out and apply their lessons in the field, and report back on their results.

Some examples of programs within LAZ University include:

- Valet Training Program
- Parking Manager Program 101
- Seven Habits of Effective Managers (Franklin Covey’s program)
- Certified Parking Professional (sponsored by LAZ and results in the National Parking Association’s designation)
- Safety Awareness Program

Designed with the 21st century learner in mind, LAZ University’s online portal gives our people on-demand access to more than 100 courses, classes and activities in three different formats:

eLearning Lessons
Similar to the way YouTube is used for “how-to” videos, LAZ University’s eLearning lessons are formatted as brief videos that may be accessed at any time, any place, from any internet connected device. These short videos not only allow for people to learn at times and places that work for them, but because they can be paused, rewound, and replayed, they allow for people of all different learning types and paces. The videos can also be accessed and reviewed at a later time if the employee needs a quick reminder on a particular procedure.

Live Courses
Some parts of the curriculum are ideally suited to a live instructor / class environment. These types of courses allow for immediate interaction, questions, and feedback. In keeping with LAZ University's "just-in-time" philosophy of learning, these Live Courses are available at various times, so that employees can sign up and take the live courses at a time that suits their position and schedule. And as with the eLearning lessons, the Live Courses are also available to be taken online through our fully interactive portal that allows users to participate in the discussion from any internet connected location and device.

Self-Directed Activities
In keeping with the understanding that learning happens as an experience over time, not as a one-time event, the LAZ University curriculum also consists of self-directed activities. Assigned as a result of various Live Courses, these activities provide opportunities for on-the-job coaching that includes real-time, immediate feedback.

Online Collaboration
To further enhance the experience of LAZ University's programs, LAZ utilizes our internal social media platform, the LAZ Nation Online Tribe. LAZ Nation Online Tribe connects LAZ people around the country in a web-based, collaborative environment and allows them to share and publish their experiences, comments, and multi-media.

There are other, more specific "Tribes" which are available only to certain people. For example, students in Parking Manager 101 program become part of the "Parking Manager Tribe". After classes, they are required to post the results of what they have implemented in their daily jobs. As more managers go through the courses, their results and experiences build over time for new groups to learn from and add to. As this knowledge builds online in the Parking Manager Tribe, managers are building their own mentoring programs on the fly, creating the kind of learning that might otherwise be lost or would need to be re-taught each time.

Program Spotlight: Parking Manager Program 101
This is a 10-week program, including classes, online live video, and synchronous video training. Homework includes online group discussions, eLearning lessons, and on-the-job activities. At the end of 10 weeks, students gather at our Home Office for live, in-person leadership practices training and a graduation ceremony to celebrate their efforts.

Requirements or Additional "Desired" Components

The following information is provided to address various requirements and additional services that were addressed throughout the Request for Proposals.

A. City of Arvada Parking Ordinance

LAZ Parking fully understands the importance and requirement of enforcing all parking regulation in accordance to applicable local, state, and federal codes. As the City's parking enforcement provider for the past five years, LAZ Parking has developed first-hand working knowledge of these codes and have built our enforcement system accordingly. As the City considers expanding parking services, changing regulations, or implementing paid parking our Government Services

Team can assist the City by benchmarking similar municipalities and making recommendations on necessary code revisions.

B. Parking Innovations

LAZ Parking has been at the forefront of technology development and implementation in the parking industry for the last 10+ years, investing heavily in proprietary solutions and partnerships that help us manage our business more efficiently, provide our clients with cost-saving solutions, and offer our customers the ability to interact with garages and lots from their mobile device or web browser.

SCAN HERE

(Use your Mobile Camera Above to See More LAZ Innovation!)

We look for hardware and software solutions with open API's to connect and integrate with all our systems, which gives our team the ability to manage our operations from as few control panels and dashboards as possible.

Throughout the COVID-19 pandemic, we have continued to look at ways to leverage our technology within our parking operations to enhance operational efficiencies and improve safety measures for employees and customers alike.

LAZ Business Intelligence

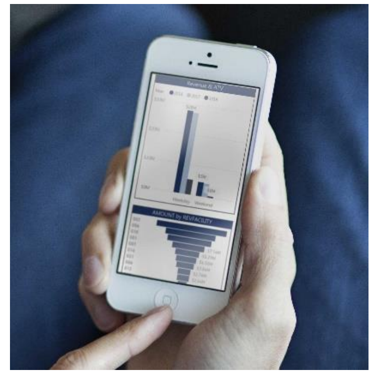
LAZ Business Intelligence takes the guesswork out of parking management by turning mountains of disconnected raw data into actionable business insights. Built in-house on the Microsoft Power BI enterprise platform by our data analytics team, LAZ BI maximizes the value of your data to make decisions smarter and faster.

This infinitely customizable solution provides a single view of the most critical data points that drive a parking business. By creating KPIs, users can monitor locations as a group or as a single entity in real time, and drill-down from high-level to granular views. We provide the capability to dissect the data down to individual transactions or even export the data. As a result, strategic, data-driven decisions can be made with regards to how to best manage parking operations and drive revenues to the bottom line.

LAZ BI aggregates billions of records from hundreds of integration points. From every transaction at all brands of parking revenue equipment to the specific mix of customer types entering and exiting your location. It tracks occupancy, compliance and customer interactions and analyzes the metrics and performance of how we're doing on customer service. It delivers a complete eCommerce and mobility picture, both direct and from 3rd party retailers. And it builds in external factors like weather and seasonality.

Our proposal includes developing a custom BI dashboard for the City of Arvada incorporating all enforcement and transactional data. This system will be developed and provided at no cost to the City and LAZ will waive all license fees for the first six months once the dashboard is complete.

LAZ BI Includes:



- Dynamic Reporting
- Dash Boarding & Ad-hoc Analysis
- Advanced Analytics
- First of its kind dynamic Revenue & Yield Management Optimization
- Ability to integrate with any willing vendor for layered data

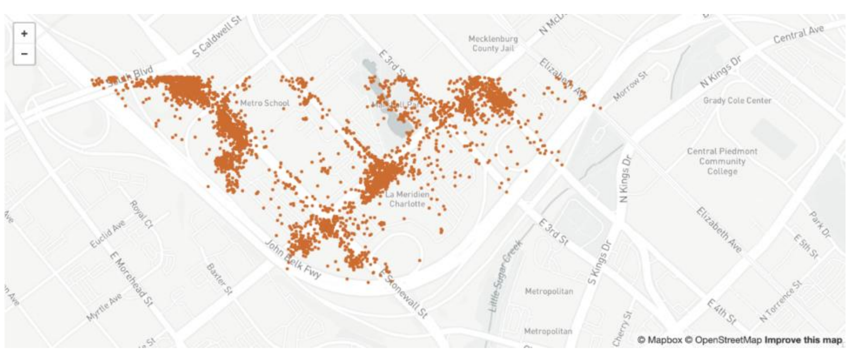
Some benefits of LAZ BI:

- Data at your fingertips, on any device
- No more compiling static reports from multiple sources
- Real time occupancy reports by location
- Predict busiest and slowest times, then adjust pricing and resources as needed
- Make strategic pricing decisions to maximize revenue by location
- Identify frequency of individual users
- Visualize occupancy levels by time to identify potential revenue opportunity
- Enforcement data to identify problem areas and staffing needs
- Unmatched insight into customer concerns and location management
- End user access and self-management for instant, limitless reporting

Combined with decades of LAZ operating expertise, LAZ BI delivers the ultimate mix of customer service and maximized profits, so you can trust more than just your gut. With LAZ BI, you'll have the power of knowing what's driving your business, right at your fingertips.

The City will have access to dashboards that help visually track key data points and performance throughout the City's different parking locations. The City will be able to apply filters to create their own data views to see the data it desires, whether that is citation density, officer performance, violation and patrol insights, or financial and accounting data. LAZ Parking is excited to provide these data management and business intelligence tools to the City to ultimately provide actionable insights.

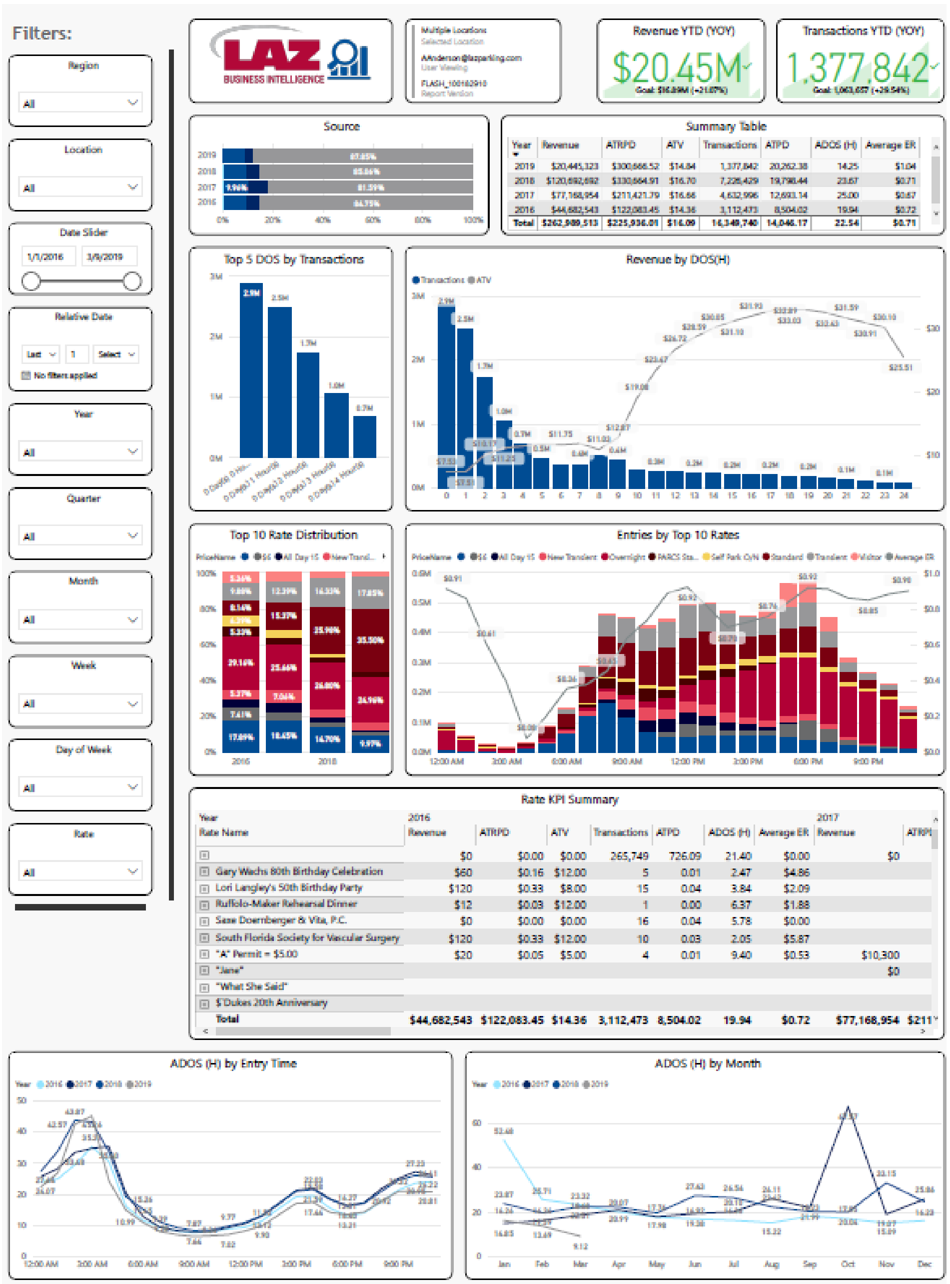
Below, is a sample mapping image visualizing parking density, a sample activity overview dashboard, as well as a sample dashboard of parking activity in two zones with quick insights into transaction counts, average session value, and total net revenue.



Sample Mapping Dashboard

Integration Examples

A few examples from a revenue and transaction-based report appear in the image below. This one takes a few different looks at the revenue stream. We see data year over year, year to date, and month by month. We can filter and drill down into this data to get into granular detail if needed. One chart is specifically analyzing the average transaction value by time of entry, and by duration of stay or exit times. We can analyze rate bands with this information as well as making staffing decision based on traffic influxes at certain times of day.



CITY OF ARVADA

C. Special On-Call Services

As the City continues to serve the community and create events and happenings certain to draw a large portion of the population, LAZ Parking has the ability to assist the City with additional services such as traffic direction, valet, flagging, etc. Previously, LAZ Parking has mobilized a team to assist with the 4th of July fireworks traffic direction and parking management at Stenger Park. These rates would apply to services for other City projects and traffic direction as needed as well. The pricing for this need would be as follows:

Director	**$40.50/hour**
Project Manager	**$31.05/hour**
Supervisor	**$27.15/hour**
Valet/Flagger/Additional Enforcement Officer	**$18.75/hour**

D. Implementation of Paid Parking

LAZ Parking has extensive experience helping municipalities similar to Arvada, with monetizing parking assets or expanding their paid parking systems. Paid parking is an essential tool of managing highly demanded parking spaces. Municipalities throughout the country charge for parking for a multitude of reasons, especially within the highly demanded on-street "curb" parking. Most cities charge for parking to influence driver behavior. Free parking, while attractive to the individual drivers, causes excessive "cruising" for spots, and essentially is a subsidy for drivers. By charging for parking, cities can not only control who parks where, but for how long. Charging for parking increases turnover of limited parking thus creating more supply in dense urban areas. The following is provided as an overview of the advantages to implementing paid on-street parking:

Benefits of Paid Parking:

- **Reduce Traffic Congestion and Vehicle Emissions:** It is estimated that 30-40% of urban traffic is caused by drivers "cruising", circling the block looking for free parking. Charging for parking reduces this behavior as pricing is established to promote the use of the adjacent off-street parking.
- **Increase Parking Supply:** On-Street parking is a limited and highly demanded commodity. Charging for parking increases the turnover of these spaces, effectively increasing the parking supply for consumers.
- **Encourages the Use of Public Transportation:** Charging for parking encourages the use of public transportation and promotes carpools, thus reducing single occupancy vehicles.
- **Generates Revenue:** There is a cost to providing parking even within the public right of way. Developing, paving, maintaining the street infrastructure is very expensive for cities and is typically funded through general taxes. Charging for parking allows cities to recover a portion of this expense.
- **Reduces the Tax Burden:** Considered as a "User Fee", charging the users of the parking system reduces the tax burden to the general population.

While paid parking is a means of generating additional revenue for cities, implementing paid parking should be viewed as a management strategy and not just as a revenue source. To gain public acceptance of paid parking, it is important for cities to determine how parking revenues are appropriated.

Many municipalities use parking related revenue to pay solely for parking related programs. Parking revenue is often used to pay for parking operations, maintenance, technology or to fund other parking services that benefit a broader area. This approach can be accomplished by establishing an enterprise or utility fund by the City so that all revenue from parking stays within the parking fund. Parking revenue can also be designated to make other infrastructure improvements such as funding transit initiatives or downtown streetscape improvements. Many cities establish Downtown Improvement Districts and designate parking revenue to benefit the entire district. Regardless of the approach, the public's acceptance of paid parking will be greatly enhanced through proper financial planning and communication.

LAZ Parking Approach

LAZ Parking currently manages over 400,000 parking spaces for municipalities throughout the United States. We have extensive experience in all aspects of on and off-street parking management including technology implementation; preventative and routine maintenance; revenue collection and accounting services; parking enforcement and permit control; business intelligence and predictive analytics; and marketing and community outreach. LAZ has helped many of our municipal clients implement paid parking within their downtown communities or expand their paid parking programs.

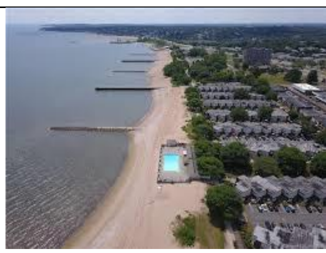
Our commitment is to provide a customer centric approach to parking management. Our approach focuses on public education as well as business and community outreach. This effort fosters acceptance of new programs including implementing paid parking. Integral to this effort, LAZ places a strong focus on marketing and communications to the individual users of the system as well as the broader community as a whole. As part of our marketing efforts and our commitment to excellence, LAZ has specific marketing requirements for our management team and onsite teams driven by our inhouse marketing department. This ensures we are providing each location with the necessary efforts to gain acceptance and effectively communicate to patrons.

Our marketing plan typically address the following objectives:

- Create awareness of the parking program to the target markets including downtown business community, residents, visitors, and special event attendees. This will be done through strategically placed advertising and signage, group outreach, a dynamic web and mobile strategy and partnerships with retail and event venues.
- Incorporate innovative equipment features, pricing strategies, technology, online and app-based programs to fill the garage during all hours with a proper mix of user groups, monthly and transient users, tapping into the growing market of web-generated parking patrons on nights, weekends and events.
- Maximize revenues through unique and innovative drivers.
- Unique and accretive ancillary revenue recommendations.

The following is provided as examples where LAZ has assisted our municipal clients with either implementing or expanding paid parking:

Implementation and Expansion of Paid Parking - Examples

 *Westminster, CO*	As part of the development of the City's new Urban Center, LAZ Parking was hired to provide parking management, consulting, and enforcement services. As part of this effort, we are assisting the City with the development and implementation of a paid parking system throughout the downtown including both on-street parking and multiple city-owned parking lots and garages.
 *Kansas City, MO*	LAZ Parking manages the on and off-street parking systems for the City of Kansas City. Totaling over 7,600 spaces, Kansas City's current system includes five downtown garages and 1,500 metered parking spaces. LAZ is assisting the City with a modernization and expansion project that will add on-street metered parking to several commercial districts outside of the CBD. Once completed, the project will more than double the meter parking in KC.
 *West Haven, CT*	LAZ Parking was recently hired by the City of West Haven to provide a parking monetization study including the development of a technology and operating plan for the City's parking system. The plan is focus on several key areas within the City including the shoreline, downtown, the Veteran's Hospital and the University of New Haven districts.
 *Volusia County, FL*	In April of 2019, LAZ Parking was awarded the contract to provide countywide parking operations and management services for Volusia County. This operation includes over 2,000 parking spaces spanning both garage and surface lots. Our initial effort included expanding the County's paid parking system, installing new technology, and implementing a new citation management system.
 *Palm Springs, CA*	In 2018, LAZ Parking was hired by the City of Palm Springs and Palm Springs Resort to provide a comprehensive parking assessment and provide recommendations on implementing paid parking throughout the Central Business District. The study focused on both on-street and off-street parking as well as event parking for a new proposed 16,000 seat sports and entertainment arena.

REQUIRED VENDOR SUBMITTAL FORM

SUBMITTED BY:

Company Name: LAZ Parking MIDWEST, LLC

Contact Names: Sales/Customer Service Joshua Calkins, General Manager

Address: 633 17th St., Suite 1650 Denver, CO 80202

Phone: (303) 291.1111 x102 Email(s): jcalkins@lazparking.com

The undersigned hereby affirms that:

- He/she is a duly authorized agent of the vendor;
- He/she has read all Terms and Conditions and technical specifications made available in conjunction with this solicitation and fully accepts and acknowledges this offer is consistent with the specifications and terms and conditions, unless specific variations have been clearly and expressly listed in the offer.
- The Offer is in all respects fair, without outside collusion or otherwise illegal action.

By: [signature]	5-11-21	
Signature of Authorized Agent	Date	FEIN
Joshua Calkins	General Manager	jcalkins@lazparking.com
Typed/Printed Name of Agent	Title of Agent	Agent email
Maxwell Fuller	General Manager	mfuller@lazparking.com
Typed/Printed Name of Witness	Title of Witness	Witness email

PAYMENT TERMS: If the vendor does not accept a percentage discount, the City standard is net thirty (30) days after the date that the City receives an accurate invoice and has accepted the product or service. Payment is the date of the check mailing or date of the credit card transaction.

Discount: ____% ____ Days, Net: 30 Days, Accept Visa without additional fee? No

VARIATIONS: The vendor shall identify all variations and exceptions to any RFP documents. Submittal of a Vendor Contract is considered excessive in Variations and may be cause for determining that the Bid/Offer is non-responsive and ineligible for award. For each variation listed, reference the applicable section of the solicitation document as per the example below. If no variations are listed here, it is understood that the vendor's Offer fully complies with all terms and conditions. Attach additional Variation sheets in the same format as below after starting the first three on this page.

Page #:_____ Item # or Section: N/A

Variance ____________________

Page #:_____ Item # or Section: N/A

Variance ____________________

Page #:_____ Item # or Section: N/A

Variance ____________________

15

CITY OF ARVADA

SUBMITTAL INSTRUCTIONS:

Proposals shall be submitted in the order listed below with each section clearly identified.

- Submit ON-LINE at BidnetDirect.com
- Cover & Executive Summary.
- Detail Firm's and employees' Capabilities, Experience, Licensing, and Compliance Status.
- Details of Proposal – Proposed products & services, implementation timeline and warrantees.
- Completed City Submittal Forms including this sheet and all other attachments specifically requested.
- Pricing – All fee and costs associated with the proposal.
- Performance Measures Form, when an applicable service.
- ✖ Insurance – Checking this box accepts that the insurance requirements listed by the City are acceptable unless listed in the variations on the previous page.
- CONFIDENTIAL information, if any, MUST be stamped as such on each page and submitted separately.
- Please initial to acknowledge Addenda, if any, have been considered in your proposal:

#1 JC #2 JC #3 JC

REFERENCES: X - References are included in Proposal

✖ Check here if Firm's standard reference sheet is attached, otherwise, use the space below. X

Name: City of Westminster Contact Person: Wady Burgos

Address: 9201 Harlan St. Westminster, CO 80031

Telephone No: 303.658.2121 Email: wburgos@cityofwestminster.us

Describe type of work/service performed or items supplied: Municipal Parking Management

Name: City of New Rochelle, NY Contact Person: Todd Castaldo

Address:

Telephone No: 914.654.2190 Email: tcalstald@newrochelleny.com

Describe type of work/service performed or items supplied: Municipal Parking Managament

Name: City of Norwalk, CT Contact Person: Kathryn Hebert

Address:

Telephone No: 203.994.3408 Email: khebert601@gmail.com

Describe type of work/service performed or items supplied:

16

CITY OF ARVADA

PRICING

FINANCIAL PRO FORMA	
LAZ Parking Midwest, LLC	
City of Arvada Enforcement	
Denver, CO	**2021 RFP FIRST YEAR BUDGET**

	ANNUAL SUMMARY			NOTATIONS
	Violation Revenue	$	76,188	Assumes 2,500 tickets paid, 80% paid on time. Citation amounts are $28 with a $25 late fee escalation to $53 total. ADA Citations are $225. Total revenue similar to 2019 revenues before the pandemic.
	Citation Collection Fees	$	(8,471)	$3.00 per citation paid on time, 20% of citations paid late with the additional $1.50 late fee letter- **Expense not included in 'Not to exceed' amount as this expense is variable based on revenue**
	Garage Free Session Fees (RTD or Olde Town Visitor)	$	(2,040)	$.20 fee per free session at Olde Town Garage - expense varies MTM- this assumes 850/mo- **Expense not included in 'Not to exceed' amount as this expense is variable based on garage usage**
	NET REVENUE	**$**	**65,677**	
OPERATING EXPENSES	**PAYROLL RELATED**			
	Salaries & Wages	$	106,164	Allocation for Project Manager and 7 day/week coverage of Enforcement Ambassador 8a-7p @ $17hr- with one hour overlap. This will accommodate a part time shift (4hrs) and one full time (8hrs). **These hours are enough to cover potential expansion zones outlined in RFP**
	Payroll Taxes & Processing	$	19,272	
	Worker's Comp, Health, and Retirement	$	36,810	Increase from single plan to family plan for Project Manager
	Total Direct Payroll & Related	**$**	**162,246**	
	NON-PAYROLL RELATED			
	Repair and Maintenance	$	-	No R&M Expenses needed historically
	RCS Maint (Paystation Fees)	$	2,520	$70/mo per T2 machine in Garage (3 machines total).
	Permit Fees	$	6,000	$500/month for permit service
	Vehicle Expense	$	1,080	EV Purchased by City - Maint under warranty- $90/mo for Chargepoint account based on current trend. Vehicle Insurance provided by Arvada.
	Uniforms	$	1,040	Uniforms
	Signage	$	-	Signage typically provided by the City
	Tickets	$	925	Citations and envelopes
	Office Supplies	$	900	Miscellaneous office supplies
	Telephone and Communication	$	1,200	Handheld wireless service and portion of manager cell
	New Hire Screening	$	120	$10/month
	Total Non-Payroll Related	**$**	**13,785**	
	ADMINISTRATIVE & FEES			
	Licenses and Permits	$	-	N /A
	Liability Insurance	$	5,760	General Liability, Umbrella, Garage Keepers Liability, Crime and Employer Liability- **NO Increase from current agreement**
	Bank Service Fees	$	600	Miscellaneous banking fees
	Professional Services	$	1,800	Administrative processing, IT, Audit- **NO Increase from current agreement**
	Management Fee	$	33,000	$2,750 per month- **NO Increase from current agreement**
		$	**41,160**	
	TOTAL OPERATING EXPENSES	**$**	**217,191**	
NET OPERATING INCOME		**$**	**(151,514)**	
NET INCOME		**$**	**(151,514)**	

CITY OF ARVADA

PERFORMANCE MEASURES FORM INSTRUCTIONS:

The City has incorporated Performance Management into its organizational culture. When vendors submit offers to the City in response to solicitations for ***Services*** (not associated with the primary purchase of goods, supplies, or software), they shall identify the methods and goals by which they will monitor and report their performance providing those services to the City. Vendor's performance shall be documented as to (a) Price/Cost, (b) Punctuality/Responsiveness (c) Quality/Reliability, and (d) Sustainability/or Innovation.

1. Vendor will define 1-2 measures for (a) Price/Cost, (b) Punctuality/Responsiveness (c) Quality/Reliability, and (d) Sustainability/or Innovation, that follow S.M.A.R.T goals: Specific, Measurable, Achievable, Relevant, and Timely, per category.
2. The awarded vendor will self-score their defined metrics within a score card emailed from purchasing 2 months prior to contract renewal. The department will review the vendor's self-scored measures.

SERVICES means: the furnishing of labor, time, effort, maintenance, etc., by a vendor/contractor/consultant, with an initial contract amount of more than $15,000.

(a) Price/Cost

Example Measure: Consultant will submit detailed invoices substantiating amounts requested.

1. LAZ Parking will utilize our team of accountants to ensure proper invoicing for all City expenses follows the budgeted amount and will provide suficient for each backup within the monthly report.
2.

(b) Punctuality/Responsiveness

Example Measure: Reporting of project status will occur monthly with the City and consultant's Project Manager.

1. LAZ Parking's dedicated team will attend monthly rhythm meetings with the City's team to ensure all projects are tracking within the projected time-line and will discuss any variations in pricing and methodology within these meetings as well.
2.

(c) Quality/Reliability

Example Measure: Revisions are drafted within two weeks, and no more than 3 revisions prior to final draft.

1. LAZ Parking's monthly financial statements will go through vigorous review and controls to ensure that all requested documents from the City are contain within the report, and that all information is accurate and reliable.
2.

(d) Sustainability and/or Innovation

Example Measure: Digital reports delivered to the City 95% of the time will to reduce the use of paper.

1. As part of LAZ Parking's "Green Inititative", LAZ Parking will utilize emails and digital documents to reduce the amount of waste created by communication with the City.
2. LAZ Parking has partnered with a electric vehicle charging station provider to a)encourage the use of electric vehicles within our facilities, and b) offer our clients more green solutions within the garages.

Performance measures will be queried for every year of the contract. Performance measures reporting will partially inform re-contracting with or renewing a contract with a vendor.

REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.A.2.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-102 A Resolution Authorizing the Issuance of a Purchase Order in the Amount of $245,887 to Honnen Equipment Co. for the Purchase of One 2021 John Deere 644 P Loader

Report in Brief

Fleet Services utilizes a fifteen point tracking system that is part of FASTER fleet software system to identify vehicle replacement needs. This system tracks and assesses points to three categories including vehicle age, mileage, and maintenance costs. An accumulation of fifteen points renders the vehicle no longer cost effective to retain for service. As part of the 2021 Vehicle Replacement Program Fleet Services has identified that Streets Division loader S306 is in need of replacement.

The Arvada team recommends that the City Council approve R21-102, A Resolution Authorizing the Issuance of a Purchase Order in the Amount of $245,887 to Honnen Equipment Co. for the Purchase of One 2021 John Deere 644 P Loader.

Financial Impact

This new unit will be purchased in the amount of $245,887 as part of the 2021 Vehicle Replacement budget with available funds from the New Vehicle and Equipment Acquisitions Program account number 54.731010.58207 and are a one-time cost.

This new unit will be purchased in accordance with Gov't competitive bid award: Sourcewell Contract # 032119-JDC and meet all City requirements and specifications.

Background

Unit S306 is used to load materials into dump trucks such as dirt and spoils from excavations, large pieces of asphalt and concrete, road base, and road deicing materials during snow removal operations. This particular loader is also the only one in Arvada’s fleet capable of operating the Sno-Go, a heavy duty snow blower that is invaluable to have during major snow events such as the one we experienced in early 2021. This unit is 23 years old and is not currently in service due to the need of an expensive brake repair estimated to cost nearly half the fair market value of the loader itself. This loader has reached the end of its useful life and has been identified to be in need of replacement.

Discussion

Approval of this resolution and procurement of this unit will enable the Streets Department to continue maintaining their current levels of service which are critical to the City during snow removal and street maintenance operations. In addition, the procurement of these units will enable Fleet Services staff to maintain equipment in an efficient and cost effective manner which focuses on preventive maintenance with minimum equipment downtime.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

NA

Strategic Alignment

This equipment replacement supports the City Council Strategic Plan within the Infrastructure Priority Area by obtaining safe and environmentally efficient fleet vehicles as well as maintaining existing roads and transportation networks in tandem with snow and ice control services to ensure swift and safe transportation modes for the community.

Alternative Courses of Action

NA

Recommendation for Action

The Arvada team recommends that the City Council approve R21-102 A Resolution Authorizing the Issuance of a Purchase Order in the Amount of $245,887 to Honnen Equipment Co. for the Purchase of One 2021 John Deere 644 P Loader.

Suggested Motion:

I move that R21-102, A Resolution Authorizing the Issuance of a Purchase Order in the Amount of $245,887 to Honnen Equipment Co. for the Purchase of One 2021 John Deere 644 P Loader, be (approved) (rejected)

Prepared by:
Ike Miller, Fleet Services Manager

Reviewed by:

Approved by:

Sharon Israel, Director of Utilities	7/29/2021
Bryan Archer, Director of Finance	7/30/2021
Tammy Hedlund, Legal Specialist	7/30/2021
Erika Pierce, Litigation Paralegal	7/30/2021
Jessica Morales, Assistant City Attorney	7/30/2021
Rachel Morris, City Attorney	8/3/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-102

A RESOLUTION AUTHORIZING THE ISSUANCE OF A PURCHASE ORDER IN THE AMOUNT OF $245,887 TO HONNEN EQUIPMENT CO. FOR THE PURCHASE OF ONE 2021 JOHN DEERE 644 P LOADER

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The city manager is hereby authorized to issue a purchase order in the amount of $245,887 to Honnen Equipment Co. for the purchase of (1) 2021 John Deere 644 P Loader.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: ______________________________________

Customer Purchase Order for John Deere Construction and Forestry Products - USA

PO# 08136268
PO Revision# Original

PURCHASER NAME AND ADDRESS *(First Signer)*			
NAME(First, Middle, Last): **CITY OF ARVADA**			
STREET or RR: **6701 INDIANA ST**			
CITY: **ARVADA**	STATE: **CO**	ZIP CODE: **80007**	COUNTY: **Jefferson**
PHONE NUMBER: **720-898-7702**	EMAIL ADDRESS: **jnelson@arvada.org**		
REWARDS #: **980752592**			

PURCHASER NAME AND ADDRESS *(Second Signer)*			
NAME(First, Middle, Last)			
STREET or RR			
CITY	STATE	ZIP CODE	COUNTY
PHONE NUMBER	EMAIL ADDRESS		
REWARDS #			

DEALER NAME AND ADDRESS			
DEALER NAME: **Honnen Equipment Co.**		Dealer Account No. : **170469**	
STREET or RR: **5055 E. 72nd Avenue**			
CITY: **Commerce City**	STATE: **CO**	ZIP CODE: **80022**	Phone Number: **303-287-7506**
Date Of Order: **Jul 12, 2021**			
Dealer Order No.: **17013841**	TYPE OF SALE: ☒ CASH ☐ LEASE ☐ TIME SALE		
PURCHASER TYPE: **5 City/Town/Village**	MARKET USE CODE: **51 Highways & Streets Paving**		

Add Purchaser to Mailing List (Check One or More)
☐ Construction ☐ Utility ☐ Forestry ☐ Government

PURCHASER IS: ☒ Business ☐ Individual	Purchaser Acct.:
☐ SOCIAL SECURITY ☐ IRS TAX ID NO ☐ EIN	
NO. :	

EXTENDED WARRANTY IS: ☐ Accept ☑ Decline	LOCATION OF FIRST WORKING USE :	Use State/Province	COUNTY CODE
(Initials)	Use County JEFFERSON	CO	59

Ultimate Uptime Package Purchase: ☐ Yes ☑ No (Initials)

QTY	NEW	DEMO	RENT	USED	EQUIPMENT (Model, Size, Description)	Hours of Use	PIN or Serial Number	Delivered Cash Price	
1	X				2021 JOHN DEERE 644 P WHEEL LOADER **Stock #** 73307	20	1DW644PAVMLZ11756	$ 245,887	00
					- DECLINED :John Deere Preventative Maintenance :				
					- DECLINED :John Deere Extended Warranty :				
							(1) TOTAL CASH PRICE	$ 245,887	00

QTY	TRADE-IN (Model, Size, Description)	Hours of Use	PIN or Serial Number	AMOUNT	

COMMENTS:
GOV'T COMPETITIVE BID AWARD: Sourcewell discount contract number 032119-JDC.

(2) TOTAL TRADE-IN ALLOWANCE	$ 0	00
(3) TOTAL TRADE-IN PAY-OFF	$ 0	00
(4) BALANCE	$ 245,887	00
(5) DOC FEE	$ 0	00
(6) SUBTOTAL	$ 245,887	00
(7) RENTAL APPLIED	$ 0	00
(8) CASH WITH ORDER	$ 0	00
(9) BALANCE DUE (6-(7 & 8)	$ 245,887	00

ACKNOWLEDGMENTS: Purchaser offers to sell, transfer, and convey the item(s) listed as “Trade In” to the Dealer at or prior to the time of delivery of the above product(s), as a “trade-in” to be applied against the cash price. Purchaser represents that each “trade-in” item shall be free and clear of all security interests, liens, and encumbrances at the time of transfer to the Dealer except to the extent shown below. The price to be allowed for each “trade-in” item is listed on this document. The Purchaser promises to pay the balance due (line 9) shown hereon in cash, or to execute a Time Sale Agreement (Retail Installment Contract), or a Loan Agreement for the purchase price of the Product(s), plus additional charges shown thereon, or to execute a Lease Agreement, on or before delivery of the equipment ordered herein. Despite delivery of the Product(s) to the Purchaser, title shall remain with the Seller until one of the foregoing is accomplished. The Purchaser and the Dealer agree that this Purchase Order is not a security agreement and that delivery of the Product(s) to the Purchaser pursuant to this Purchase Order will not constitute possession of the Product(s) by the Purchaser, as a debtor, for the purposes of the purchase money security provisions in any statutes relating to personal property security or its equivalent. Purchaser understands that its rights in connection with this purchase are limited as set forth in this Purchase Order.

Customer Purchase Order for John Deere Construction and Forestry Products - USA

JOHN DEERE

PO#	08136268
PO Revision#	Original

Quote ID: 24809148 **Customer Name:** CITY OF ARVADA

DISCLOSURE OF REGULATION APPLICABILITY: When operated in California, any off-road diesel vehicle may be subject to the California Air Resources Board In-Use Off-Road Diesel Vehicle Regulation. It therefore could be subject to retrofit or accelerated turnover requirements to reduce emissions of air pollutants. More information is available on the California Air Resources Board website at **http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm** .

IMPORTANT WARRANTY NOTICE: The Standard Warranty for new John Deere construction and forestry products is set forth in a separate document provided by the dealer. Please read the Standard Warranty carefully before signing. No express warranty is made unless specified in the Warranty Statement. PURCHASER'S RIGHTS AND REMEDIES PERTAINING TO THIS PURCHASE ARE LIMITED AS INDICATED IN THE STANDARD WARRANTY AND PURCHASE ORDER. WHERE PERMITTED BY LAW, NO IMPLIED WARRANTY OF MERCHANTABILITY, CONDITIONS OR FITNESS IS MADE.

The undersigned purchaser(s) (the "Purchaser") hereby orders the product(s) (the "Product") described above from the Dealer. The Dealer shall not be liable for failure to provide the Product or for any delay in delivery if such failure or delay is due to the Dealer's inability to obtain such Product from the manufacturer or supplier or other cause beyond the Dealer's control. The cash price shown above is subject to the Dealer receiving the Product from the manufacturer or supplier prior to any change in price by the manufacturer or supplier and is also subject to any new or increased taxes being imposed upon the sale of the Product after the date of this Purchase Order.

TERMS & CONDITIONS VERIFICATION STATEMENT : Use of John Deere Data Services, if applicable, and all rights and obligations of John Deere and the Purchaser (or "Customer" as identified in the applicable agreement), are governed by the terms and conditions outlined in the Warranty Statement and the applicable John Deere Construction & Forestry Company Subscriptions & Data Services Dealer Agreement and/or Customer Data Services agreements available at www.JohnDeere.com/Agreements. Purchaser agrees to be bound by these terms and conditions if Purchaser activates or otherwise uses any of the Data Services. If Purchaser does not agree to these terms and conditions, Purchaser must not activate or otherwise use the Data Services.

USE OF INFORMATION/PRIVACY NOTICE I understand that John Deere Construction & Forestry Company and its affiliates ("John Deere") and Dealer collect information, including my personal information and machine data to provide warranty, customer service, product and customer support, marketing and promotional information about Dealer, John Deere and their equipment, products and services and to support other business processes and purposes. See the John Deere Privacy Statement (**https://www.deere.com/en/privacy-and-data/privacy-statements/**) for additional information on the types of personal information and machine data John Deere collects, how it is collected, used and disclosed. See Dealer directly for information about its privacy policy.

Purchaser's signature below acknowledges the Purchaser has received a copy of the Standard Warranty, Version ____________ (Initials) ____________ ____________ and understands its terms and conditions.

Purchaser (First Signer)	CITY OF ARVADA	Signature		Date	
Purchaser (Second Signer)		Signature		Date	
Dealer Representative	Honnen Equipment Co.	Signature		Date	
Salesperson	STEHLE,MIKE	Signature		Date	

DELIVERY ACKNOWLEDGEMENT	Delivered with Operator's Manual On:	Purchaser Signature

☒ C&F Warranty ☐ Hitachi Warranty
☐ Timberjack Warranty

Submit

☐ Show Details

CITY OF ARVADA

REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.A.3.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-103 A Resolution Approving the Eighth Amendment to an Employment Agreement By and Between the City of Arvada and Mark G. Deven as City Manager

Report in Brief

City Council meets annually with the City Manager to provide a performance evaluation. On July 12, 2021, City Council met with Mr. Deven to provide written and verbal feedback about his performance over the past year. As a result of this performance evaluation, Mr. Deven's annual salary is being adjusted by 3% from $241,900.00 to $249,157.00. In addition, Mr. Deven is being given a one-time lump sum bonus payment of $12,458.00. To implement this change, the attached resolution formally approves the eighth amendment to the employment agreement between the City and Mark Deven as City Manager.

Financial Impact

The financial impact of this Resolution is $7,257.00 annually, along with the one-time bonus amount of $12,458.00.

Background

See the Report in Brief above.

Discussion

The City Manager is requesting that the City Council approve R21-103, A Resolution Approving the Eighth Amendment to an Employment Agreement By and Between the City of Arvada and Mark G. Deven as City Manager.

This amendment provides for a $7,257.00 salary increase for the City Manager over his 2019 salary, and a one-time lump sum bonus payment of $12,458.00.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The proposed action aligns with the Organizational and Service Effectiveness Priority Area within the City Council Strategic Plan.

Alternative Courses of Action

N/A

Recommendation for Action

N/A

Suggested Motion:

I move that R21-103, A Resolution Approving the Eighth Amendment to an Employment Agreement By and Between the City of Arvada and Mark G. Deven as City Manager, be (approved) (rejected).

Prepared by:
Toni Riebschlager, Law Office Administrator

Reviewed by:

Approved by:

Nora Steenson, Deputy City Attorney	7/27/2021
Linda Haley, Director of Human Resources	7/27/2021
Rachel Morris, City Attorney	7/29/2021
Lorie Gillis, Deputy City Manager	8/3/2021
Mark Deven, City Manager	8/3/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-103

A RESOLUTION APPROVING THE EIGHTH AMENDMENT TO AN EMPLOYMENT AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND MARK G. DEVEN AS CITY MANAGER

WHEREAS, on September 12, 2011, the City of Arvada and Mark G. Deven entered into an Employment Agreement for the appointment of Mr. Deven as City Manager; and

WHEREAS, the Agreement has been amended several times since that date; and

WHEREAS, the parties wish to amend the Agreement again by executing the Eighth Amendment thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, the Eighth Amendment to an Employment Agreement by and between the City of Arvada and Mark G. Deven as City Manager. The form of the Eighth Amendment is substantially the same as that attached hereto.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: ______________________________________

EIGHTH AMENDMENT TO AN EMPLOYMENT AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND MARK G. DEVEN AS CITY MANAGER

WHEREAS, on September 12, 2011, the City of Arvada and Mark G. Deven ("Employee") entered into an Employment Agreement ("Agreement") for Employee's appointment to the position of City Manager as provided in Section 6.1 of the Arvada City Charter; and

WHEREAS, on July 8, 2013, the Agreement was amended with the execution of the First Amendment; with the Second Amendment on June 30, 2014; with the Third Amendment on June 29, 2015; with the Fourth Amendment on June 27, 2016; with the Fifth Amendment on June 26, 2017; and with the Sixth Amendment on June 25, 2018; and with the Seventh Amendment on June 24, 2019; and

WHEREAS, the parties wish to amend the Agreement by executing this Eighth Amendment as set forth herein.

<u>Section 1.</u> Section 3.0, Salary, of the Agreement is hereby amended to read as follows:

3.0 **SALARY.**

3.1 City agrees to pay Employee for services rendered an annual base salary of \$249,157.00 payable in installments at the same time and in the same manner as other employees of the City are paid. Payments made shall be subject to such withholdings as may be required or regulated by law, or that are authorized from time to time by Employee. In addition, Employee shall be paid a bonus of \$12,458.00 within 30 days of the date of execution of this Amendment. Employee may elect to take all or a portion of the bonus in cash, or place all or a portion of the bonus into Employee's retirement account.

All other provisions of the Agreement shall remain unchanged.

<u>Section 2.</u> This amendment shall be effective July 12, 2021.

<u>Section 3.</u> The terms of the Agreement shall remain unchanged except as specifically amended herein. This Eighth Amendment shall not act as a waiver of any term or condition of the Agreement or amendments thereto as previously executed.

DATED: _________________, _______

_________________________________   _________________________________
Marc Williams, Mayor   Mark G. Deven
City Manager

ATTEST:

____
City Clerk

CITY OF ARVADA

REPORT TO CITY COUNCIL RESOLUTION	AGENDA ITEM 8.A.4.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-104 A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Rachel A. Morris as City Attorney

Report in Brief

City Council meets annually with the City Attorney to provide a performance evaluation. On July 12, 2021, City Council met with Ms. Morris for the purpose of providing written and verbal feedback about her performance over the past year. As a result of this performance evaluation, Ms. Morris's annual salary is being adjusted by 3% from $185,000.00 to $190,550.00. In addition, Ms. Morris is being given a one-time lump sum bonus payment of $9,528.00. To implement this change, the attached resolution formally approves the first amendment to the employment agreement between the City and Rachel Morris as City Attorney.

Financial Impact

The financial impact of this Resolution is $5,550.00 annually, along with the one-time bonus amount of $9,528.00.

Background

See Report in Brief above.

Discussion

The City Manager is requesting that the City Council approve R21-104, A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Rachel A. Morris as City Attorney.

This amendment provides for a $5,550.00 salary increase for the City Attorney over her 2019 salary, and a one-time lump sum bonus payment of $9,528.00.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The proposed action aligns with the Organizational and Service Effectiveness Priority Area within the City Council Strategic Plan.

Alternative Courses of Action

N/A

Recommendation for Action

N/A

Suggested Motion:

I move that R21-104, A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Rachel A. Morris as City Attorney, be (approved) (rejected).

Prepared by:
Toni Riebschlager, Law Office Administrator

Reviewed by:

Approved by:

Nora Steenson, Deputy City Attorney	7/26/2021
Linda Haley, Director of Human Resources	7/26/2021
Rachel Morris, City Attorney	7/29/2021
Lorie Gillis, Deputy City Manager	8/3/2021
Mark Deven, City Manager	8/3/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-104

A RESOLUTION APPROVING THE FIRST AMENDMENT TO AN EMPLOYMENT AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND RACHEL A. MORRIS AS CITY ATTORNEY

WHEREAS, on October 8, 2019, the City of Arvada and Rachel A. Morris entered into an Employment Agreement for the appointment of Ms. Morris as the City Attorney; and

WHEREAS, the parties wish to amend the Agreement by executing the First Amendment thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, the First Amendment to the Employment Agreement by and between the City of Arvada and Rachel A. Morris as City Attorney. The form of said First Amendment is substantially the same as that attached hereto.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Nora S. Steenson, Deputy City Attorney

By: ____

FIRST AMENDMENT TO AN EMPLOYMENT AGREEMENT BY AND BETWEEN
THE CITY OF ARVADA AND RACHEL A. MORRIS
AS CITY ATTORNEY

WHEREAS, on October 8, 2019, the City of Arvada and Rachel A. Morris (“Employee”) entered into an Employment Agreement (“Agreement”) for Employee’s appointment to the position of City Attorney as provided in Section 8.1 of the Arvada City Charter; and

WHEREAS, the parties wish to amend the Agreement by executing this First Amendment as set forth herein.

Section 1. Section 7.0, Compensation, of the Agreement is hereby amended to read as follows:

7.0 **COMPENSATION.**

7.1 Base Salary. City agrees to pay Employee for services rendered an annual base salary of $190,550.00 payable in installments at the same time and in the same manner as other City employees are paid. Thereafter, the Employee’s salary may be adjusted as set forth herein and at the discretion of the City Council. Payments made shall be subject to such withholdings as may be required or regulated by law, or that are authorized from time to time by Employee. In addition, Employee shall be paid a bonus of $9,528.00 within 30 days of the date of execution of this Amendment. Employee may elect to take all or a portion of the bonus in cash, or place all or a portion of the bonus into Employee’s retirement account.

All other provisions of the Agreement shall remain unchanged.

Section 2. This amendment to the Agreement shall be effective July 12, 2021.

Section 3. The terms of the Agreement shall remain unchanged except as specifically amended herein. This First Amendment shall not act as a waiver of any term or condition of the Agreement or amendments thereto as previously executed.

DATED: ________________, ________

____
Marc Williams, Mayor

____
Rachel A. Morris
City Attorney

ATTEST:

____
City Clerk

REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.A.5.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-105 A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Kathryn C. Kurtz as Presiding Municipal Court Judge

Report in Brief

City Council meets annually with the Presiding Municipal Court Judge to provide a performance evaluation. On July 12, 2021, City Council met with Ms.Kurtz for the purpose of providing written and verbal feedback about her performance over the past several months. As a result of this performance evaluation, Ms. Kurtz's annual salary is being adjusted by 3% from $150,000.00 to $154,500.00. To implement this change, the attached resolution formally approves the first amendment to the employment agreement between the City and Kathryn C. Kurtz as Presiding Municipal Court Judge.

Financial Impact

The financial impact of this Resolution is $4,550.00 annually.

Background

Discussion

See Report in Brief above.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The proposed action aligns with the Organizational and Service Effectiveness Priority Area within the City Council Strategic Plan.

Alternative Courses of Action

N/A

Recommendation for Action

N/A

Suggested Motion:

I move that R21-105, A Resolution Approving the First Amendment to an Employment Agreement By and Between the City of Arvada and Kathryn C. Kurtz as Presiding Municipal Court Judge, be (approved) (rejected).

Prepared by:
Toni Riebschlager, Law Office Administrator

Reviewed by:

Approved by:

Rachel Morris, City Attorney	7/29/2021
Nora Steenson, Deputy City Attorney	8/2/2021
Linda Haley, Director of Human Resources	8/3/2021
Lorie Gillis, Deputy City Manager	8/3/2021
Mark Deven, City Manager	8/3/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-105

A RESOLUTION APPROVING THE FIRST AMENDMENT TO AN EMPLOYMENT AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND KATHRYN C. KURTZ AS PRESIDING MUNICIPAL COURT JUDGE

WHEREAS, on January 11, 2021, the City of Arvada and Kathryn C. Kurtz entered into an Employment Agreement for the appointment of Ms. Kurtz as the Presiding Municipal Court Judge; and

WHEREAS, the parties wish to amend the Agreement by executing the First Amendment thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, the First Amendment to the Employment Agreement by and between the City of Arvada and Kathryn C. Kurtz as Presiding Municipal Court Judge. The form of the First Amendment is substantially the same as that attached hereto.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _______________________________________

FIRST AMENDMENT TO AN EMPLOYMENT AGREEMENT BY AND BETWEEN
THE CITY OF ARVADA AND KATHRYN C. KURTZ
AS PRESIDING MUNICIPAL COURT JUDGE

WHEREAS, on January 11, 2021, the City of Arvada and Kathryn C. Kurtz ("Employee") entered into an Employment Agreement ("Agreement") for Employee's appointment to the position of Presiding Municipal Court Judge as provided in Section 8.2 of the Arvada City Charter; and

WHEREAS, the parties wish to amend the Agreement by executing this First Amendment as set forth herein.

Section 1. Section 7.0, Compensation, of the Agreement is hereby amended to read as follows:

7.0 **COMPENSATION.**

7.1 Base Salary. City agrees to pay Employee for services rendered an annual base salary of $154,500.00 beginning on the effective date of this Amendment. This amount shall be payable in installments at the same time and in the same manner as other City employees are paid. Thereafter, Employee's salary may be adjusted as set forth herein and at the discretion of the City Council. Payments made shall be subject to such withholdings as may be required or regulated by law, or that are authorized from time to time by Employee.

All other provisions of the Agreement shall remain unchanged.

Section 2. This First Amendment shall be effective July 12, 2021.

Section 3. The terms of the Agreement shall remain unchanged except as specifically amended herein. This First Amendment shall not act as a waiver of any term or condition of the Agreement or amendments thereto as previously executed.

DATED: _________________, ______

_________________________________ _________________________________

Marc Williams, Mayor

Kathryn C. Kurtz
Presiding Municipal Court Judge

ATTEST:

____
City Clerk

CITY OF ARVADA

REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.A.6.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-106 A Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of A Private Activity Bond Allocation of the City of Arvada Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act

Report in Brief

Arvada has received a direct allocation of the State of Colorado's Private Activity Bond Ceiling for the year 2020 of $6,699,853.

The Arvada team is recommending assignment of $6,699,853 of the PAB cap to the Colorado Housing and Finance Authority with the recommendation that the bond cap be used for purposes to support the proposed development of Cornerstone Senior Legacy Apartments located at W. 64th Avenue and Sheridan Boulevard in Arvada.

The Arvada team recommends that the City Council approve R21-106, A Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of A Private Activity Bond Allocation of the City of Arvada Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act.

Financial Impact

There is no financial impact associated with the proposed action. This action will assign the City 2020 annual allocation of Private Activity Bond (PAB) authority in the amount of $ 6,699,853 to the Colorado Housing and Finance Authority.

Background

Cornerstone Housing Group (CHG), LLC is proposing to develop a 72-unit senior affordable housing community on the southwest corner of W. 64th Avenue and Sheridan Boulevard in Arvada to be known as the Legacy Senior Residences (Legacy).

The Legacy will offer 38 one-bedroom homes and 34 two-bedroom homes for seniors aged 55 or better. All of the units in the Legacy will be affordable, with income limits ranging between 30% and 80% of the Jefferson County Area Median Income (AMI). The 2021 (4) person AMI for Jefferson County is $104,800.

The Legacy will commit to remain affordable for a minimum of 40 years at the following income levels:

- 9 units at 30% of the Area Median Income
- 12 units at 50% of the Area Median Income
- 35 units at 60% of the Area Median Income
- 9 units at 70% of the Area Median Income
- 7 units at 80% of the Area Median Income

The proposed site, at the SW corner of W. 64th Avenue and Sheridan Boulevard, is currently an in-fill site. The developer purchased the land in April of 2021. The City has approved a lot consolidation and rezoned the property, allowing the development of the senior housing project to be a use by right. The CHG development team is currently working with the City on the Final Development Plan (FDP) approval.

The site is attractive for senior development, as it is conveniently located to many services and amenities, all within walking distance (ie. grocery, pharmacy, banking, retail, restaurants, public park, etc.). In addition, there is a public bus stop within a quarter-mile and the RTD “G Line” is within a half-mile.

CHG is in need of the City's PAB allocation in order to meet CHFA's requirements for the 4% Low Income Housing Tax Credit Program. The Arvada team is recommending assignment of $6,699,853 of the PAB cap to the Colorado Housing and Finance Authority with the recommendation that the bond cap be used for purposes to support the proposed development of Cornerstone Senior Legacy Apartments located at 64th and Sheridan in Arvada.

Discussion

The recommended action facilitates the allocation of Private Activity Bond (PAB) authority in the amount of $6,699,853 to the Colorado Housing and Finance Authority. In addition, the recommended action supports expansion of affordable housing opportunities for older adults aged 55 years and over. As the Council is aware, Arvada's older population is increasing and this demographic has demonstrated a desire for additional affordable housing options.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The recommended action is consistent with the City Council's Strategic Plan Principle to **"Improve access to quality housing that is affordable to a broad range of income levels and provides resources, housing, and neighborhood assistance services to Arvada residents, neighborhoods, property owners, and stakeholders."**

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that City Council approve R21-106 A Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of A Private Activity Bond Allocation of the City of Arvada Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act .

Suggested Motion:

I move that R21-106, A Resolution Authorizing Assignment to the Colorado Housing and Finance Authority of A Private Activity Bond Allocation of the City of Arvada Pursuant to the Colorado Private Activity Bond Ceiling Allocation Act, be (approved) (rejected).

Prepared by:
Rosa Kougl, Executive Assistant

Reviewed by:

Approved by:

Carrie Espinosa, Manager of Housing Preservation and Resources	7/26/2021
Gordon Reusink, Director of Vibrant Community and Neighborhoods	8/2/2021
Bryan Archer, Director of Finance	8/3/2021
Gail Walker, Legal Specialist-Contracts	8/3/2021
Kylie Justus, Assistant City Attorney	8/3/2021
Rachel Morris, City Attorney	8/3/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-106

A RESOLUTION AUTHORIZING ASSIGNMENT TO THE COLORADO HOUSING AND FINANCE AUTHORITY OF A PRIVATE ACTIVITY BOND ALLOCATION OF THE CITY OF ARVADA PURSUANT TO THE COLORADO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

WHEREAS, the City of Arvada is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of financing qualified residential rental projects for low- and moderate-income persons and families; and

WHEREAS, the City of Arvada is authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to provide such mortgage loans and for certain other purposes; and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Colorado Housing and Finance Authority (the "Authority") and other governmental units in the State, and further providing for the assignment of such allocations from such other governmental units to the Authority; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the City of Arvada has an allocation of the 2021 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to **September 15, 2021** (the "2021 Allocation"); and

WHEREAS, the City of Arvada has determined that, in order to increase the availability of adequate affordable housing for low- and moderate-income persons and families within the City of Arvada and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2021 Allocation; and

WHEREAS, the City of Arvada has determined that the 2021 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Authority to issue Private Activity Bonds for the purpose of financing one or more multi-family rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds") or for the issuance of mortgage credit certificates; and

WHEREAS, the City Council of the City of Arvada has determined to assign $6,699,853.00 of its 2021 Allocation to the Authority, which assignment is to be evidenced by an Assignment of Allocation between the City of Arvada and the Authority (the "Assignment of Allocation").

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

<u>Section 1</u>. The assignment to the Authority of $6,699,853 of the City of Arvada's 2021 Allocation be and hereby is approved.

Section 2. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in a form approved by the City Attorney, an Agreement, which is in substantially the same form as attached Assignment of Allocation be and hereby are approved.

Section 3. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:

Rachel Morris, City Attorney

By:

This Assignment of Allocation (the "Assignment"), dated this__________day of August__________, 2021, is between the City of Arvada______________, Colorado (the "Assignor" or the "Jurisdiction") and Colorado Housing and Finance Authority (the "Assignee").

WITNESSETH:

WHEREAS, the Assignor and the Assignee are authorized and empowered under the laws of the State of Colorado (the "State") to issue revenue bonds for the purpose of providing single- family mortgage loans to low- and moderate-income persons and families; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), restricts the amount of tax-exempt bonds ("Private Activity Bonds") which may be issued in the State to finance such projects and for certain other purposes (the "State Ceiling"); and

WHEREAS, pursuant to the Code, the Colorado legislature adopted the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes (the "Allocation Act"), providing for the allocation of the State Ceiling among the Assignee and other governmental units in the State, and further providing for the assignment of allocations from such other governmental units to the Assignee; and

WHEREAS, pursuant to an allocation under Section 24-32-1706 of the Allocation Act, the Assignor has an allocation of the 2021 State Ceiling for the issuance of a specified principal amount of Private Activity Bonds prior to September 15, 2021, (the "2021 Allocation"); and

WHEREAS, the Assignor has determined that, in order to increase the availability of adequate affordable rental housing for low- and moderate-income persons and families within the Jurisdiction, Colorado and elsewhere in the State, it is necessary or desirable to provide for the utilization of all or a portion of the 2021 Allocation; and

WHEREAS, the Assignor has determined that the 2021 Allocation, or a portion thereof, can be utilized most efficiently by assigning it to the Assignee to issue Private Activity Bonds for the purpose of financing one or more multifamily rental housing projects for low- and moderate-income persons and families or to issue Private Activity Bonds for the purpose of providing single-family mortgage loans to low- and moderate-income persons and families ("Revenue Bonds"), and the Assignee has expressed its willingness to attempt to issue Revenue Bonds with respect to the 2021 Allocation assigned herein; and

WHEREAS, the City Council of the Assignor has determined to assign to the Assignee all or a portion of its 2021 Allocation, and the Assignee has agreed to accept such assignment, which is to be evidenced by this Assignment.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, the parties hereto agree as follows:

1. The Assignor hereby assigns to the Assignee $ 6,699,853.00 of its 2021 Allocation (the "Assigned Allocation"), subject to the terms and conditions contained herein. The Assignor represents that it has received no monetary consideration for said assignment.

2. The Assignee hereby accepts the assignment to it by the Assignor of the Assigned Allocation, subject to the terms and conditions contained herein. The Assignee agrees to use its best efforts to issue and sell Revenue Bonds in an aggregate principal amount equal to or greater than the Assigned Allocation, in one or more series, and to make proceeds of such Revenue Bonds available from time to time for a period of one (1) year from the date of this Assignment to finance multi-family rental housing projects located in the Jurisdiction, or to issue Revenue Bonds for the purpose of providing single-family mortgage loans to low- and moderate income persons and families in the Jurisdiction.

3. The Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all or any portion of the Assigned Allocation as an allocation for a project with a carryforward purpose or to make a mortgage credit certificate election, in lieu of issuing Revenue Bonds.

4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Assignment.

5. Nothing contained in this Assignment shall obligate the Assignee to finance any particular multi-family rental housing project located in the Jurisdiction or elsewhere or to finance single-family mortgage loans in any particular amount or at any particular interest rate or to use any particular percentage of the proceeds of its Revenue Bonds to provide mortgage loans or mortgage credit certificates to finance single-family housing facilities in the Jurisdiction, provided that any Revenue Bond proceeds attributable to the Assigned Allocation shall be subject to paragraph 2 above.

6. This Assignment is effective upon execution and is irrevocable.

7. Counterparts. This Assignment may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Assignment by electronic image scan transmission will be effective as delivery of a manually executed counterpart of the Assignment.

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment on the date first written above.

City of Arvada____________________, Colorado

By:______________________________

Name: Marc Williams______________________

Title: Mayor_____________________________

ATTEST:

____

City Clerk

Approved as to Form
Rachel Morris, City Attorney by:

____

COLORADO HOUSING AND FINANCE AUTHORITY

By: ____________________________

Name:____________________________

Title:_____________________________

CITY OF ARVADA

REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.B.1.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-107, A Resolution Authorizing Intergovernmental Agreements by and between the City of Arvada and the Counties of Adams and Jefferson for the Regular Municipal Election on November 2, 2021.

Report in Brief

The purpose of this resolution is to authorize Intergovernmental Agreements with the counties of Adams and Jefferson for the regular municipal election to be held on November 2, 2021. Both Jefferson County and Adams County have determined that they will be conducting a "coordinated election" on November 2, 2021.

The Arvada team recommends that the City Council approve R21-107, A Resolution Authorizing Intergovernmental Agreements by and between the City of Arvada and the Counties of Adams and Jefferson for the Regular Municipal Election on November 2, 2021.

Financial Impact

The approximate cost for contracting with both counties is $50,000. The final cost is determined by the number of entities participating and sharing in the costs of the election, staff hired by the counties to assist in the election, printing costs, and mailing costs. Arvada's share is a percentage based on the number of registered voters. These costs are budgeted in the City Clerk's budget.

Background

Section 3.2 of the Arvada City Charter states that Regular Municipal Elections shall be held biennially on the first Tuesday in November in odd-numbered years.

Discussion

Conducting a coordinated election with Adams and Jefferson Counties saves public resources, avoids duplication of services, and provides Arvada voters with seamless access to exercise their right to vote.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

This action aligns with the City Council Strategic Plan Priority Area of Organizational and Service Effectiveness.

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve R21-107, A Resolution Authorizing Intergovernmental Agreements by and between the City of Arvada and the Counties of Adams and Jefferson for the Regular Municipal Election on November 2, 2021.

Suggested Motion:

I move that R21-107, A Resolution Authorizing Intergovernmental Agreements by and between the City of Arvada and the Counties of Adams and Jefferson for the Regular Municipal Election on November 2, 2021, be (approved) (rejected).

Prepared by:
Kristen Rush, City Clerk

Reviewed by:
Toni Riebschlager, Law Office Administrator 7/23/2021

Approved by:

Rachel Morris, City Attorney	8/4/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-107

A RESOLUTION AUTHORIZING INTERGOVERNMENTAL AGREEMENTS BY AND BETWEEN THE CITY OF ARVADA AND THE COUNTIES OF ADAMS AND JEFFERSON FOR THE REGULAR MUNICIPAL ELECTION ON NOVEMBER 2, 2021

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in form approved by the City Attorney, Intergovernmental Agreements which are attached hereto, by and between the City of Arvada and the Counties of Adams and Jefferson for the Regular Municipal Election on November 2, 2021.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: _____________________________________

INTERGOVERNMENTAL AGREEMENT BETWEEN ADAMS COUNTY AND THE CITY/TOWN OF CITY OF ARVADA FOR THE NOVEMBER 2, 2021 COORDINATED ELECTION

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this 16th day of August, 2021, by and between the Adams County Clerk and Recorder, located at 4430 S. Adams County Parkway, Suite E3102, Brighton, Colorado 80601, hereinafter referred to as the "Clerk and Recorder," and the City/Town of CITY OF ARVADA, located at 8101 Ralston Road Arvada, Colorado, 80002, hereinafter referred to as the "Municipality" for the purpose of conducting a Coordinated Election to be held on **November 2, 2021**. The Clerk and Recorder and the Municipality may be collectively referred to herein as the "Parties."

RECITALS

WHEREAS, pursuant to Colo. Const. art. XIV, § 18(2)(a), and Colorado Revised Statute (C.R.S.) § 29-1-203, the County and the Municipality may cooperate or contract with each other to provide any function or service lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition of taxes, and incurring of debt; and,

WHEREAS, pursuant to § 1-1-111, C.R.S. of the Uniform Election Code of 1992 (§ 1-1-101, *et. seq.* C.R.S.), hereinafter referred to as the "Code," the Municipality is authorized to contract with the Clerk and Recorder to perform all or part of the duties associated with conducting elections; and,

WHEREAS, the Clerk and Recorder and the Municipality have determined that it is in their best interests to conduct the election as a "coordinated election," as such terms are defined in the Code; and,

WHEREAS, the Clerk and Recorder and the Municipality have determined that it is in the best interests of their respective residents to cooperate and contract concerning the election upon the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is acknowledged, the Parties hereto agree as follows:

AGREEMENT

ARTICLE I: DUTIES OF THE CLERK AND RECORDER

1. COORDINATED ELECTION OFFICIAL. The Clerk and Recorder shall act as the "Coordinated election official," pursuant to § 1-1-104(6.5), C.R.S., and shall be responsible for the conduct of the election, which shall be in accordance with the provisions of the Code, the Taxpayer's Bill of Rights, Colo. Const. art. X, § 20, hereinafter referred to as "TABOR," and any pertinent Rules promulgated by the Colorado Secretary of State, hereinafter referred to as the "Rules."

2. NO RUN-OFF ELECTION. This Agreement is for the November 2, 2021 election only. In the event the Municipality's Code and/or Charter provide for a run-off election, and a run-off election becomes necessary, the Adams County Clerk and Recorder will not conduct that election for the Municipality.

3. CONTACT OFFICER. The Election Administrator, Jami Gaultney, will be the designated contact officer and will act as the primary liaison between the Election Office and the Municipality for purposes of the election. Jami Gaultney can be reached at (720) 523-6421 or jgaultney@adcogov.org.

4. VOTER LISTS. Upon the request of the Municipality, the Clerk and Recorder shall provide to the Municipality a list of the names and addresses of the registered voters in the Municipality. The list shall be certified by the Clerk and Recorder upon the request of the Municipality designated election official. If the Municipality believes the Clerk and Recorder's voter registration list is inaccurate, the Municipality shall immediately advise the Clerk and Recorder and shall work with the Clerk and Recorder on corrections and revisions in a timely manner.

5. VOTING. The Clerk and Recorder shall provide for voter service and polling centers, mail, emergency, and provisional voting, pursuant to the relevant provisions of the Code and/or the Rules.

6. CERTIFICATION OF RESULTS. The Clerk and Recorder shall appoint a canvass board, pursuant to § 1-10-101 or § 1-10-201, *et seq*., C.R.S.

7. RECORDS AND STORAGE. The Clerk and Recorder shall store all election records, and any other such materials as required under the Code, for a period of at least twenty-five (25) months after the election. Such storage shall be accessible by the Municipality, if legally necessary, upon accompaniment by the Clerk and Recorder or a designated representative, to resolve any challenges or other legal questions that might arise. In addition, upon request, the Clerk and Recorder shall compile a list of the names of persons who vote in the election and, shall provide to the Municipality a printed or electronic list containing the names of those persons.

ARTICLE II: DUTIES OF THE MUNICIPALITY

1. DESIGNATED ELECTION OFFICIAL. The Municipality has designated
Kristen Rush
720-898-7546
kristen@arvada.org,
as its "designated election official," pursuant to § 1-1-104(8), C.R.S. The designated election official shall act as the primary liaison between the Municipality and the Clerk and Recorder. The municipality may provide a secondary contact via email to jgaultney@adcogov.org. All communications concerning the election, whether oral or in writing, shall be directed to the Adams County Election Department, 4430 S. Adams County Parkway, Suite E3102, Brighton, Colorado 80601; phone number: (720) 523-6421; and facsimile number: (720) 523-6266. Email communications are preferred and should be sent to jgaultney@adcogov.org.

2. ORDINANCE OR RESOLUTION. In order to avoid any potential discrepancies and as allowed by § C.R.S. 1-1-102, the Municipality will pass an Ordinance or Resolution indicating that it will utilize and be subject to the requirements and procedures of the Uniform Election Code of 1992 while participating in this election and that said Code will apply in lieu of the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., with respect to any election. Municipality will supply a copy of this Ordinance or Resolution when returning a signed copy of this IGA to the Clerk and Recorder.

3. STREET LOCATOR FILE. In order for the Clerk and Recorder to provide correct ballots to electors, it is critical that the information contained in the Municipality's street locator file be accurate. It is the Municipality's responsibility to ensure that the information contained in the street locator file is an accurate representation of the Municipality's street indexes contained within the Municipality's legal boundaries.

As long as the Clerk and Recorder has been timely notified of the Municipality's intent to participate in the election, the Clerk and Recorder will provide to the Municipality a street locator file by **July 28, 2021**.

- The file will contain a list of the street address ranges the Clerk and Recorder's system currently shows as being located in the Municipality.
- The designated election official for the Municipality shall inspect the information contained in the locator file and shall notify the Clerk and Recorder's Office by **August 13, 2021** of any changes, additions or deletions that need to be made. If required, the Clerk and Recorder will make the required changes and resubmit the locator file to the Municipality.
- The Municipality will inspect the file and shall make a final certification as to the accuracy of the locator file by no later than **September 3, 2021**.
- If the locator information and/or certification are not provided by the Municipality on the date specified herein, the Municipality may not participate in the election on **November 2, 2021.**

4. LEGAL NOTICES. The Clerk and Recorder shall publish notice of the election, as required by the Code, and such publication shall satisfy the publication requirement for all political subdivisions participating in the election, pursuant to § 1-5-205(1.4), C.R.S. However, the Municipality shall post and/or publish any other legal notices required of the Municipality, pursuant to relevant provisions of its charter, the Code, TABOR, the Rules, or the Colorado Municipal Code of 1965, § 31-10-101, *et seq*., C.R.S., except as otherwise provided herein.

6. PETITIONS. Petitions, where applicable, shall be made available through the Municipality's designated election official, pursuant to the applicable laws and/or rules.

7. VERIFICATION OF PETITIONS. Petitions shall be verified by the Municipality, pursuant to the applicable laws and/or rules. The Clerk and Recorder will provide access to voter registration information to the Municipality if petitions are verified.

8. WRITE-IN CANDIDATES. Affidavits of intent to become a write-in candidate, where applicable, shall be filed with the Municipality's designated election official, pursuant to the applicable laws and/or rules, and a copy will be provided to the Clerk and Recorder.

9. BALLOT CERTIFICATION AND PREPARATION. The Municipality shall provide to the Clerk and Recorder the Municipality's ballot text by no later than **September 3, 2021 at 3:00 p.m.**, which is sixty (60) days prior to the election, pursuant to § 1-5-203(3)(a), C.R.S.. The Municipality shall be solely responsible for the language, content, and accuracy of the ballot text.

In accordance with § 1-5-407(7), C.R.S., no printing or distinguishing marks shall be on the ballot except as specifically provided in the Code. Additionally, the ballot text shall be submitted by e-mail as an attachment that conforms to the following requirements, to Jami Gaultney at jgaultney@adcogov.org. Ballot questions and issues will be designated a number and a letter after ballot certification.

The ballot text, sample attached as "Exhibit A", shall be provided:

- In Microsoft Word format
- In Arial 10 point font
- With no extraordinary formatting (including, but not limited to, no bullets, text boxes, charts, spreadsheets, bolding, strike-outs, strike-throughs, parenthesis, or symbols)
- Ballot issue title and text shall be provided in all caps
- All contests must include the "term of office" and "vote for _#_" information

For purposes of consistency, when candidates choose to use nicknames they will appear on the ballot in quotation marks as follows: First Name "Nickname" Last Name.

An audio recording of all candidate names for Municipality's portion of the ballot must be provided by having the candidates call (720) 523-6046 and follow the recorded instructions by no later than the ballot certification deadline of **September 3, 2021 at 3:00 p.m.**

Within one (1) business day of receiving a "proof-ready" copy of the ballot text from the Clerk and Recorder, the Municipality shall proof and authorize the text and layout of its portion of the ballot prior to the printing of ballots. The Municipality will be allowed to make corrections to the ballot proof copy only within the one (1) business day period. If there is no response within the allotted proofing period, the District's portion of ballot text will be approved for printing.

10. ELECTION TESTING, AUDIT AND RESULTS. The Municipality may attend and observe any ballot testing, as scheduled by the Clerk and Recorder, prior to the election. The Municipality may also attend and observe any logic and accuracy or post-election audit conducted after Election Day, pursuant to §§ 1-7-509 and 1-7-514, C.R.S. Election results will not be final and official until certified by the canvass board, which may be up to 22 days after Election Day.

11. ELECTION DAY. On Election Day, the Municipality shall provide election support by telephone and/or in-person from 7 a.m. until 7 p.m. or longer, as requested by the Clerk and Recorder. The Municipality must also act as a voter registration agent as required by § 1-2-202 (2), C.R.S., and assist voters with "same day voter registration" needs, if a voter appears and requests such service.

12. REFERENCE CALENDAR. The Municipality will comply with all of the dates listed in the Important Elections Dates calendar attached as "Exhibit B".

ARTICLE III: TABOR

The Municipality shall be solely responsible for its compliance with the requirements of TABOR, Colo. Const. art. X, § 20, for the purposes of the election, unless otherwise specified herein.

If the Municipality is required to prepare a TABOR notice for any ballot issue(s), the Municipality shall be solely responsible for its preparation, accuracy, and the language contained therein, and shall submit such notice, including pro and con summaries and fiscal information, to the Clerk and Recorder by no later than **September 20, 2021 at 3:00 p.m**., which is forty-three (43) days prior to the election, pursuant to § 1-7-904, C.R.S. Such notice, including pro and con summaries and fiscal information, shall be submitted by e-mail as an attachment that conforms to the following requirements to Jami Gaultney at jgaultney@adcogov.org.

The notice, sample attached as "Exhibit C", shall be provided:

- in Microsoft Word format
- in Arial 10 point font
- with no extraordinary formatting (including, but not limited to, no bullets, text boxes, charts, spreadsheets, strike-outs, strike-throughs, bolding, or symbols)

If the Clerk and Recorder is responsible for preparing a TABOR notice package, the Clerk and Recorder shall do so in compliance with the provisions of TABOR, Colo. Const. art. X, § 20, and any pertinent Rules.

Except as otherwise specified herein, the Clerk and Recorder shall in no manner be responsible for the Municipality's compliance with the requirements of TABOR, nor shall the Clerk and Recorder in any manner be responsible for the language contained in the TABOR notice(s) prepared by the Municipality.

The Municipality shall be solely responsible for calculating and providing to the Clerk and Recorder any fiscal information necessary to comply with TABOR, Colo. Const. art. X, § 20(3)(b), and the Clerk and Recorder shall in no way be responsible for the accuracy of the fiscal information, which shall be placed in the ballot issue notice as provided by the Municipality.

If applicable, pursuant to § 1-7-906(2), C.R.S., the Municipality shall be responsible for mailing the ballot issue notice packet to each address of one or more active registered electors who do not reside within the County.

Within one (1) business day of receiving a "proof-ready" copy of the TABOR notice from the Clerk and Recorder, the Municipality shall proof and authorize the text and layout of its portion of the notice prior to the printing of notices. The Municipality will be allowed to make corrections to the notice proof copy only within the one (1) business day period. If there is no response within the allotted proofing period, the District's portion of the TABOR Notice will be approved for printing.

ARTICLE IV: COSTS

The Municipality shall reimburse the County for its prorata share of the actual costs of the election, as permitted under § 1-7-116(2)(b), C.R.S., including the costs associated with the mailing of the TABOR notice package (if applicable). Such proration shall be made based upon a formula of active registered voters within each entity participating in the election. The prorated actual costs shall include those expenses permitted by state law including, but not limited to, the costs of temporary labor, part-time labor, overtime, postage, equipment delivery, extraordinary equipment rental, printing, legal publications, mailings, materials, voter service and polling centers if applicable, election worker expenses, and other costs. There may be additional factors, for example anticipated voter turnout, that may affect this cost estimate. A multiple page ballot is possible and will result in additional costs. Actual costs may include charges for extraordinary ballot question length if said length results in increased printing costs. Minimum election cost is $100.

For the 2021 election, it is estimated that costs to the Municipality will be approximately $2.00 per active registered voter in the Municipality. This is an estimate only.

TABOR notice costs will be additional and will be billed for printing based on the number of pages consumed by the Municipality. TABOR notice costs will be based on the number of active registered voter households in the Municipality. There is a $100 TABOR notice cost for entities with 1,000 voters or less. The TABOR notice cost for entities with 2,000 voters or less is $500. Fees for Districts with more than 2,000 voters are based on proportional actual costs.

In the event Municipality has a mandatory recount, Municipality will be responsible and charged for the actual cost incurred by the County for conducting the recount.

In the event that there is an error in the ballot language certified to the Clerk and Recorder by the Municipality, and the Municipality requests that it be corrected, the Clerk and Recorder will make its best effort to correct the error on the ballot if time and circumstance allow. However, the Municipality will be responsible for the cost of correcting the error, including, but not limited to all costs associated with reprinting the ballots.

The Clerk and Recorder shall submit to the Municipality an invoice for all expenses incurred under this Agreement, and the Municipality shall remit to the Clerk and Recorder the total payment within thirty (30) days of the receipt of such invoice. If the invoice is not paid in full within thirty (30) days, the balance due may be subject to a ten percent (10%) per annum interest rate from the date due until paid in full.

ARTICLE V: CANCELLATION OF THE ELECTION

In the event the election is canceled, notice of such cancellation shall be provided by the Municipality to the Clerk and Recorder. The Municipality shall reimburse the Clerk and Recorder for the actual expenses incurred in preparing for the election, and those expenses shall be paid by the Municipality to the Clerk and Recorder within thirty (30) days of the receipt of an invoice therefor. If cancelation occurs after the certification deadline, full election costs may be incurred. If the actual expenses are not paid in full within thirty (30) days, the balance due may be subject to a ten percent (10%) per annum interest rate from the date due until paid in full.

ARTICLE VI: DAMAGES

Subject to the provisions of the Colorado Governmental Immunity Act, each party assumes liability for losses, costs, demands or actions arising out of or related to any actions, errors or omissions of its officers, employees, or agents in fulfilling its responsibilities for the election or under this Agreement. Nothing contained in this Agreement shall constitute any waiver by either party of the provisions of the Colorado Governmental Immunity Act or any other immunity or defense provided by statute or common law.

ARTICLE VII: CONDUCT OF THE ELECTION

It is the intent of the Parties that the Clerk and Recorder shall conduct the election and the Municipality shall timely supply the Clerk and Recorder with all information needed for that part of the election that is related to the Municipality.

ARTICLE VIII: MISCELLANEOUS

1. COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. The facsimile, email or other electronically delivered signatures of the parties shall be deemed to constitute original signatures.

2. NOTICES. Any and all notices required to be given to the Parties by this Agreement are deemed to have been received and to be effective: a) three (3) days after the same shall have been mailed by certified mail, return receipt requested; b) immediately upon hand delivery; or c) immediately upon receipt of confirmation that a facsimile transmission thereof was received. All notices shall be addressed to the following Parties:

For the Clerk and Recorder:
Josh Zygielbaum
Adams County Clerk and Recorder
4430 S. Adams County Parkway
Suite E3102
Brighton, Colorado 80601
Phone: (720) 523-6500
Facsimile: (720) 523-6266
E-mail: jzygielbaum@adcogov.org

Jennifer D. Stanley, Assistant County Attorney
Adams County Attorney's Office
4430 S. Adams County Parkway, Suite C5000B
Brighton, Colorado 80601
Phone: (720) 523-6116
Facsimile: (720) 523-6114
E-mail: jstanley@adcogov.org

For the Municipality:
Kristen Rush
CITY OF ARVADA
8101 Ralston Road
Arvada, Colorado, 80002
720-898-7546
DEO'S FAX NUMBER
kristen@arvada.org

3. INTEGRATION OF UNDERSTANDING. This Agreement contains the entire understanding of the Parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by all of the Parties.

4. SEVERABILITY. If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect. No subsequent resolution or ordinance enacted the Municipality shall impair the rights of the Clerk and Recorder or the Municipality hereunder without the written consent of the Parties.

5. TIME OF ESSENCE. Time is of the essence under this Agreement. The statutory time frames or requirements of the Code, TABOR, and the Rules shall apply to the completion of any duties or tasks required under this Agreement.

IN WITNESS WHEREOF, the Parties have signed this Agreement to be effective as of the date first written above.

CLERK AND RECORDER
ADAMS COUNTY, COLORADO

______________________________ ______________________________

Josh Zygielbaum Date

Approved as to form:

____

Adams County Attorney's Office

FOR THE Municipality:

______________________________ ______________________________

Name: Kristen Rush Date

Title: DESIGNATED ELECTION OFFICIAL'S TITLE

ATTEST:

______________________________ ______________________________

Municipal Clerk Date

Approved as to form:

____

Municipality Attorney's Office

Exhibit A
Ballot Text Examples

Contests

“District” “Office”
“Term of Office”
“(Vote for #)”

“Candidate names in Arial 10 point font and upper/lower case”

Ballot Questions

“District” Question “#”

“Ballot Title”

“Print ballot question in Arial 10 point font and upper/lower case text.”

Ballot Issue

“DISTRICT” BALLOT ISSUE “#”

“BALLOT TITLE”

“PRINT BALLOT ISSUE IN ARIAL 10 POINT FONT AND ALL UPPERCASE TEXT.”

Exhibit B

Important Election Dates

The following are dates of important activities related to the 2021 election for reference by the Municipality.

2021 Election Activity Dates	
7/23	Last day for Municipality to notify Clerk of intent to participate
7/28	Clerk supplies Municipality with street locator file
8/13	Last day for Municipality to notify Clerk of street locator file discrepancies
8/24	Last day to sign IGA
9/3	Last day for Municipality to file ballot content with Clerk
9/3	Last day for Municipality to provide audio recording of candidates' names
9/3	Last day for Municipality to certify street locator file
9/20	Last day for Municipality to certify TABOR content, if applicable
11/2	Election day – Municipal Clerk’s office must be open 7 a.m. - 7 p.m. to assist voters

Exhibit C

TABOR Notice Example

NOTICE OF ELECTION TO XXXXXXXX XXXXX

[two line spaces]

Election Date: Tuesday, November 2, 2021
Election Hours: 7:00 AM – 7:00 PM

Local Election Office: Name of Designated Election Official
Entity
Street Address
City, CO Zip
(xxx) xxx-xxxxx [phone] [extension if applicable]

[two line spaces]

Ballot title and text of ballot issue:

xxxxxx
xxxxxxxxxx
xxxxxxx
xxxx
xxxx
xxxx

Fiscal Information [insert table, type in info]

Fiscal Year	Fiscal Year Spending
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual	$ xxx,xxx,xxx
20xx (Estimated)	$ xxx,xxx,xxx

Then undo table borderlines, content will be in column alignment

Fiscal Year	Fiscal Year Spending
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual)	$ xxx,xxx,xxx
20xx (Actual	$ xxx,xxx,xxx
20xx (Estimated)	$ xxx,xxx,xxx

Overall percentage change xxxXXXxxxxxxxxx:	percentage
Overall dollar xxxxxxxxxxxxxxxXXXXxxxxxxxx:	$ xx,xxx,xxx
Estimated 20xx (first full fiscal year)xxxxxxx:	$ xx.xxx.xxx
Estimated 20xx fiscal year spending xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx Xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx:	$ xx,xxx,xxx

Information on District's Current **Debt***
xxxxx
xxxxx

Please do not use underscore line or footnote for *
Type only the * and comment

Summary of Written Comments FOR xxxxxxxx:

Summary of Written Comments AGAINST xxxxxx:

INTERGOVERNMENTAL AGREEMENT FOR ELECTION COORDINATION

THIS INTERGOVERNMENTAL AGREEMENT FOR ELECTION COORDINATION (this "Agreement"), dated for reference purposes only this 16th day of August , 2021, is by and between the CLERK AND RECORDER FOR THE COUNTY OF JEFFERSON, STATE OF COLORADO ("County Clerk") and the City of Arvada
(the "Jurisdiction," and together with the County Clerk, the "Parties.")

RECITALS

A. The County Clerk and the Jurisdiction are authorized to conduct elections under Colorado law.

B. The Parties wish to coordinate the administration of their respective election matters at the upcoming election to be held on November 2, 2021 (the "Election");

C. This Agreement sets forth the Parties' respective duties and responsibilities in connection with the preparation for, and conduct of, the Election.

AGREEMENT

In consideration of the foregoing recitals and the mutual covenants and promises herein contained, the Parties agree as follows:

1. **__Definitions.__** Capitalized terms not otherwise defined herein shall have the meanings set forth below:

   a. "Applicable Law" means all law applicable to the Election, including, without limitation, the Colorado Constitution, the Uniform Election Code (as defined below), UOCAVA (as defined below) and the Rules (as defined below).

   b. "Ballot Box" means a locked and secured container meeting the requirements of Applicable Law in which ballots may be deposited.

   c. "Ballot Issue" shall have the meaning ascribed to that term in C.R.S. § 1-1-104(2.3).

   d. "Ballot Issue Notice" shall have the meaning ascribed to that term in C.R.S. § 1-1-104(2.5).

   e. "Ballot Measure" means any Ballot Issue or Ballot Question.

   f. "Ballot Question" shall the meaning ascribed to that term in C.R.S. § 1-1-104(2.7).

   g. "Election Audit" means a risk-limiting audit performed in accordance with the requirements of C.R.S. § 1-7-515.

   h. "Election Canvass" means the process of reconciling the ballots cast in the Election to the ballots counted, which is performed in accordance with the requirements of C.R.S. § 1-10-101, et seq.

   i. "Notice Packet" means a packet containing Ballot Issue Notices prepared and mailed to eligible voters in accordance with Applicable Law and the terms of this Agreement.

j. "Precinct" means an area with established boundaries within the Jurisdiction used to establish election districts.

k. "Rules" means the current rules and regulations governing election procedures adopted by the Colorado Secretary of State, including any amendments adopted after execution of this Agreement.

l. "Shared Election Costs" means all costs incurred by the County Clerk in connection with the Election that are eligible to be shared between the County Clerk and the Jurisdiction. Shared Election Costs include, without limitation, all costs incurred by the County related to temporary election staff (such as election judges), including training and onboarding costs, regular County Clerk employee overtime costs related to the Election, costs for support, maintenance, handling and delivery of Election equipment, hardware and software, costs of preparing minority language sample ballots and Notice Packets, costs of Election forms, materials, supplies and postage, and costs of Election Day meals.

m. "Uniform Election Code" means Title 1 of the Colorado Revised Statutes.

n. "UOCAVA" means the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301, et seq., as incorporated in Colorado pursuant to C.R.S. 1-8.3-101, et seq.

2. Term. The term of this Agreement shall commence on the date it is validly executed by both Parties and shall continue until all obligations of both Parties under the Agreement have been completed.

3. Designation of Coordinated Election Official. The Parties agree that the County Clerk shall serve as the "Coordinated Election Official" for the Election. As the Coordinated Election Official, the County Clerk shall conduct the Election on behalf of the Jurisdiction and shall be responsible for performing such duties as are assigned to a Coordinated Election Official under Applicable Law, except to the extent specifically modified herein.

4. Designation of Liaisons.

a. Each Party designates the individuals listed below as its liaison and alternate liaison hereunder.

County Clerk Liaison	Alternate County Clerk Liaison
Cynthia Rasor, Project Coordinator	Drake Rambke, Elections Director
Jefferson County Elections Division	Jefferson County Elections Division
3500 Illinois Street, Suite 1100	3500 Illinois Street, Suite 1100
Golden, CO 80401	Golden, CO 80401
Direct Phone: (303) 271-8115	Direct Phone: (303) 271-8108
Office Phone: (303) 271-8111	Office Phone: (303) 271-8111
Email: logistics@jeffco.us	Email: drambke@jeffco.us

Jurisdiction Liaison	Alternate Jurisdiction Liaison
Kristen Rush Name	Name
City Clerk Title/Office	Title/Office
8101 Ralston Road Address	Address
Arvada, CO 80004 City, State, Zip Code	City, State, Zip Code
720-898-7546 Direct Phone Number	Direct Phone Number
303-915-5246 Office Phone Number	Office Phone Number
kristen@arvada.org Email	Email

b. The County Clerk Liaison shall act as the County Clerk's primary liaison with the Jurisdiction for the Election and shall have primary responsibility for performance of the County Clerk's obligations hereunder. In the event the Jurisdiction needs immediate assistance and the Election Liaison is unavailable, the Jurisdiction shall contact the Alternate County Clerk Liaison.

c. The Jurisdiction Liaison shall act as the Jurisdiction's primary liaison with the County Clerk for the Election and shall have primary responsibility for the performance of the Jurisdiction's obligations hereunder. In the event the County Clerk needs immediate assistance and the Jurisdiction Liaison is unavailable, the County Clerk shall contact the Alternate Jurisdiction Liaison.

5. **Notices.** All correspondence and notices required to be given under this Agreement shall be delivered to the Parties' respective liaisons identified above at the addresses listed above and shall be deemed received: (1) three days after the same is mailed by first class, certified mail; (2) immediately upon hand delivery; or (3) immediately upon email transmission, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission.

6. **Mail Ballot Election.** The Election shall be held on November 2, 2021 ("Election Day") and shall be conducted as a mail ballot election in accordance with the procedures of the Mail Ballot Election Act, C.R.S. § 1-7.5-101, et seq.

7. **Jurisdictional Limitation.** If the Jurisdiction encompasses territory outside of Jefferson County, Colorado, this Agreement shall be construed to apply only to that portion of the Jurisdiction that falls within Jefferson County.

8. **Responsibilities of the Parties.** The Jurisdiction and County Clerk shall perform the following responsibilities in connection with the preparation for, and conduct of, the Election, in accordance with the terms of this Agreement and Applicable Law:

   a. Execution and Documentation of Authority. On or before August 24, 2021, the Jurisdiction shall email the County Clerk:

      i. a PDF of this Agreement validly executed by the Jurisdiction; and

      ii. a copy of a duly-passed resolution stating that the Jurisdiction will coordinate with the County Clerk in the Election in accordance with the terms of this Agreement and the Uniform Election Code and authorizing the Jurisdiction to enter into this Agreement. The email shall be sent to logistics@jeffco.us.

   b. Election Preparation and Support

      i. VSPCs. The County Clerk shall establish, staff, equip and operate all Voter Service Polling Centers.

      ii. Election Judges. The County Clerk shall engage, train and coordinate the scheduling of all election judges.

      iii. Equipment and Supplies. The County Clerk shall obtain all necessary equipment and supplies to conduct the Election, including all voting equipment, ballots and forms.

      iv. Ballot Boxes. The County Clerk shall establish, maintain, and collect ballots from all Ballot Boxes.

         1) The Jurisdiction shall not take any action that would prevent voters from accessing any Ballot Box twenty-four hours per day during the period beginning September 28, 2021 and ending November 17, 2021.

      v. Ballot Counting Process. The County Clerk shall (1) establish, staff, equip and operate a centralized ballot counting location for the Election, (2) establish ballot counting procedures for the Election; and (3) establish backup ballot counting procedures and sites for ballot counting in the event its ballot counting equipment fails during the Election.

      vi. Voter Support. The County Clerk shall provide telephone and in-person support to voters during the early voting period and from 7:00 a.m. to 7:00 p.m. on Election Day.

      vii. Election Notices. The County Clerk shall publish all Election notices required by Applicable Law.

1) The Jurisdiction shall not publish any notice related to the Election without first obtaining the approval of the County Clerk. To request approval to publish a notice the Jurisdiction shall provide the County Clerk with all relevant information related to the proposed publication, including a copy of the proposed notice, at least one (1) week prior to the Jurisdiction's deadline for submitting the proposed notice to the publisher. The Jurisdiction shall bear full responsibility for any Election notices published without the County Clerk's approval and shall comply with all instructions issued by the County Clerk to remedy any incorrect or improper notices.

c. Logic and Accuracy Test. The County Clerk shall prepare for and conduct the Logic and Accuracy Test ("LAT").

1) If the Jurisdiction chooses to attend and observe the LAT for the Election, the Jurisdiction Liaison shall submit the name of the Jurisdiction's observer in writing to the County Clerk on or before 3:00 p.m. on September 20, 2021. If the Jurisdiction fails to meet this deadline, the County Clerk shall deem the failure to be a decision by the Jurisdiction not to observe the LAT and will act on behalf of the Jurisdiction, as appropriate.

d. Candidate Voice Messages. The Jurisdiction shall inform all candidates running for office in the Jurisdiction to call the County Clerk at (303) 271-8115 between August 27, 2021 and 3:00 p.m. on September 3, 2021 and leave a message containing the following information:

i. The proper pronunciation of the candidate's name;

ii. The title of the office that the candidate is running for; and

iii. The name of the Jurisdiction that the office is part of.

e. Certification of Jurisdiction Ballot Measures. The Jurisdiction shall be responsible for certifying, and for taking all actions required by Applicable Law to certify, any Ballot Measures included on the Jurisdiction's ballot certification (including both Ballot Measures referred by the Jurisdiction itself and citizen-initiated Ballot Measures affecting the Jurisdiction).

f. Ballot Preparation

i. No later than 3:00 p.m. on September 3, 2021, the Jurisdiction shall electronically submit its ballot certification to the County Clerk via text document (preferably Microsoft Word – no PDF). If the Jurisdiction fails to submit the ballot certification by the above deadline, the ballot certification may not be accepted by the County Clerk.

1) The Jurisdiction's ballot certification shall include all of the races, candidates and contests that will be presented to the Jurisdiction's voters

in the Election, including the text of all Ballot Measures, in the exact order that they need to appear on the ballot.

2) The ballot certification shall not be embedded in an email and shall not contain any extraordinary (unique) formatting. Examples of extraordinary (unique) formatting not permitted in the ballot certification include, but are not limited to: (a) text boxes; (b) charts; (c) spreadsheets; (d) strikeouts; (e) bolding; and (f) symbols.

3) The Jurisdiction shall proofread the language of any Ballot Measures that appear in the ballot certification prior to sending it to the County Clerk for initial text lay out. The Jurisdiction shall be solely responsible for ensuring the legality and accuracy of all Ballot Measure language.

4) The Jurisdiction shall not assign a ballot number to any Ballot Measure. The County Clerk shall determine the numbering of all Ballot Measures and will provide the Jurisdiction with the ballot number after ballot certification.

ii. Upon receipt of the ballot certification from the Jurisdiction, the County Clerk will:

1) Consolidate the ballot certification content received from all Jurisdictions and organize it into the structure in which it will appear on the printed ballot(s);

2) Determine the numbering of all Ballot Measures; and

3) Provide a document containing the Jurisdiction's final draft ballot printing layout and text to the Jurisdiction, with instructions to perform a final review and provide final approval by a date set forth in the instructions.

4) The County Clerk reserves the right to change the content of the Jurisdiction's ballot certification (other than candidate name/ballot question content) in order to ensure ballot consistency.

iii. Upon receipt of the final draft ballot layout from the County Clerk, the Jurisdiction shall perform a final review and proofread of the ballot layout and provide final approval to the County Clerk by the deadline included in the instructions sent to the Jurisdiction.

iv. On or before October 15, 2021, the County Clerk shall print and mail the initial wave of ballots to each address in Jefferson County at which one or more active, registered Jefferson County voter resides, together with voter instructions, outgoing envelope, return envelope and any other items required by Applicable Law.

v. From October 15, 2021 through the 8-day registration cutoff, the County Clerk shall mail supplemental ballots to active, registered Jefferson County voters who were not included in the initial mailing.

g. Preparation of Minority Language Sample Ballots and Notice Packets

i. The County Clerk may, in its discretion, prepare (1) sample ballots containing all of the races, candidates and contests available to Jefferson County voters translated into languages other than English, and/or (2) Notice Packets containing all of the Ballot Issue Notices available to Jefferson County voters translated into languages other English, and make such sample ballots and Notice Packets available to Jefferson County voters on the County Clerk's public website, at Voter Service Polling Centers, and at such other locations as the County Clerk determines.

ii. If the County Clerk prepares minority language sample ballots and/or Notice Packets, the County Clerk will (1) have the translations performed by professional translators; and (2) provide the Jurisdiction with a copy of its translated ballot and Notice Packet content, upon request.

iii. If the County Clerk prepares minority language sample ballots and/or Notice Packets, the County Clerk shall have the discretion to determine the language(s), format and content of the minority language sample ballot(s) and Notice Packet(s), provided the County Clerk complies with Applicable Law.

iv. The Jurisdiction agrees to release the County Clerk from all claims it may have relating to the County Clerk's translation of the Jurisdiction's ballot and Notice Packet content (including, without limitation, all claims relating to the accuracy of the translation) provided that the County Clerk (a) has the translation performed by a professional translator qualified to translate the content; and (b) otherwise complies with Applicable Law.

h. Ballot Counting / Result Reporting

i. The County Clerk shall count all ballots received during the Election voting period.

ii. Between 7:00 p.m. and 8:00 p.m., and between 8:00 p.m. and 9:00 p.m., on Election Day, the County Clerk shall upload unofficial Election results to the Election Night Reporting ("ENR") system (unless the Secretary of State waives or modifies these deadlines).

iii. Upon completion of the Election Canvass on November 24, 2021, the County Clerk shall upload a Jurisdiction-wide summary of the official Election results to the ENR system.

iv. On December 10, 2021 if there is a recount affecting the County, or on December 3, 2021 if there is not a recount affecting the County, the County

Clerk shall upload official Precinct or District-level Election results to its public website and make these results available to the Jurisdiction upon request.

i. Election Audit. On or before November 23, 2021, the County Clerk, in collaboration with the Election audit board(s), shall conduct, assist and oversee the Election Audit.

   i. If the Jurisdiction chooses to attend and observe the Election Audit, the Jurisdiction shall submit the name of the Jurisdiction's observer to the County Clerk on or before 3:00 p.m. on October 12, 2021. If the Jurisdiction fails to meet this deadline, the County Clerk shall deem the failure to be a decision by the Jurisdiction not to observe the Election Audit and will act on behalf of the Jurisdiction, as appropriate.

j. Election Canvass. On or before November 24, 2021, the County Clerk shall instruct and oversee the board of canvassers, who are responsible for conducting an Election Canvass and certifying the official abstract of votes cast for all candidates and Ballot Measures in the Election.

   i. If the Jurisdiction chooses to attend and observe the Election Canvass, the Jurisdiction shall submit the name of the Jurisdiction's representative to the County Clerk on or before 3:00 p.m. on October 12, 2021. If the Jurisdiction fails to meet this deadline, the County Clerk shall deem the failure to be a decision by the Jurisdiction not to observe the Election Canvass and will act on behalf of the Jurisdiction, as appropriate.

k. Election Recount. The County Clerk shall conduct an Election recount, if required by Applicable Law.

9. Duties Subject to Jurisdiction Performance. The responsibility of the County Clerk to perform the duties set forth above are contingent upon the Jurisdiction's performance of its own duties hereunder. The County Clerk shall not be responsible for failing to meet any deadlines for mailing the Notice Packet if such failure was caused by the Jurisdiction's failure to timely submit the required information in a form required by this Agreement and Applicable Law.

10. Compliance with Deadlines. The County Clerk may provide the Jurisdiction with a schedule of Election-related dates and deadlines. If the County Clerk provides such a schedule, the Jurisdiction shall comply with the deadlines included therein.

11. Withdrawal/Cancellation

a. The Jurisdiction may cancel an election of persons to office or withdraw a Ballot Measure only as permitted by Applicable Law.

b. If the Jurisdiction resolves to cancel an election to office or withdraw a Ballot Measure, the Jurisdiction shall do the following:

   i. Provide the County Clerk with written notice of such determination immediately;

ii. Provide public notice by publication of such cancellation or withdrawal as required by Applicable Law; and

iii. Pay the County Clerk its actual costs incurred in connection with the cancelled election or withdrawn Ballot Measure, which may include costs incurred by the County Clerk both before and after receipt of the Jurisdiction's notice of cancellation or withdrawal. Such payment shall be due within thirty (30) days after the Jurisdiction's receipt of an invoice from the County Clerk for such payment.

12. Recordkeeping. The County Clerk shall store all Election records, including but not limited to all voted and unvoted ballots, voter affidavits, and Election Canvass and results reports.

13. Use and Confidentiality of Voter Records. The Jurisdiction shall be responsible for ensuring that any voter records received by the Jurisdiction are used for the sole purpose of performing its duties described herein. The Jurisdiction shall ensure that all voter records are maintained in accordance with the requirements of Applicable Law, including, without limitation, the Colorado Open Records Act, C.R.S. §§ 24-72-200.1, et seq.

14. Payment of Shared Election Costs. The Jurisdiction shall reimburse the County Clerk for the Jurisdiction's pro-rated share of the Shared Election Costs. The Jurisdiction's share of the Shared Election Costs shall be calculated in accordance with the formulas set forth in Exhibit A to this Agreement. The Jurisdiction's payment of its share of the Shared Election Costs shall be due within thirty (30) days after the Jurisdiction's receipt of an invoice from the County Clerk for such payment. Any amount not paid by the above-referenced deadline will be subject to an interest charge equal to (a) 1.5% per month; or (b) the highest rate permitted by law, whichever is lower.

15. Miscellaneous Provisions

a. Amendment. This Agreement may not be modified or amended except in writing signed by the Parties.

b. Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the Parties as to the subject matter hereof and supersede all prior or contemporaneous agreements, proposals, negotiations, understandings, representations and all other communications, both oral and written, between the Parties.

c. Indemnification. The Parties understand and agree that liability for claims for injuries to persons or property arising out of the acts or omissions of either party is controlled and limited by the Colorado Constitution, the Colorado Governmental Immunity Act (C.R.S. § 24-10-101, et seq.) and the Risk Management Act (C.R.S. § 24-30-1501, et seq.). Each party shall be responsible for any and all claims incurred as a result of any alleged act or omission of the said party and its employees, which occurred or is alleged to have occurred during the performance of their duties within the scope of their employment, except where such acts or omissions are willful and wonton.

d. <u>Conflict with Law.</u> In the event that any provision in this Agreement conflicts with Applicable Law, this Agreement shall be modified to conform thereto.

e. <u>Time of Essence.</u> Time is of the essence in the performance of this Agreement. Any deadlines or other time limits set forth in Applicable Law shall apply to completion of the tasks required by this Agreement.

f. <u>No Third-Party Beneficiaries.</u> Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other person or entity not a party to this Agreement.

g. <u>Further Assurances.</u> The Parties shall execute any other documents and to take any other action necessary to carry out the intent of this Agreement.

h. <u>Governing Law; Jurisdiction & Venue.</u> This Agreement and the rights of the Parties under it will be governed by, and construed in accordance with, the laws of the State of Colorado, without regard to the conflicts of laws and rules of Colorado. The courts of the State of Colorado shall have sole and exclusive jurisdiction of any disputes or litigation arising under this Agreement. Venue for any and all legal actions arising under this Agreement shall lie in the District Court in and for the County of Jefferson, State of Colorado.

i. <u>Headings.</u> The section headings in this Agreement are for reference only and shall not affect the interpretation or meaning of any provision of this Agreement.

j. <u>Severability.</u> If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, such provision shall be deemed to be severable, and all other provisions of this Agreement shall remain fully enforceable, and this Agreement shall be interpreted in all respects as if such provision were omitted.

k. <u>Immunities Preserved.</u> It is the intention of the Parties that this Agreement shall not be construed as a contractual waiver of any immunities or defenses provided by the Colorado Governmental Immunities Act, § 24-10-101, C.R.S., et seq.

l. <u>Execution by Counterparts; Electronic Signatures.</u> This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Agreement. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Acts, C.R.S. §§ 24-71.3-101 to -121.

The Parties hereto have signed this Agreement as of the date indicated below.

JURISDICTION:

By:

Name/Title: Marc Williams, Mayor

Date: August 16, 2021

JURISDICTION LEGAL COUNSEL – OPTIONAL

By:

Name/Title: Rachel Morris, City Attorney

Date: August 16, 2021

COUNTY CLERK:
CLERK AND RECORDER FOR THE
COUNTY OF JEFFERSON,
STATE OF COLORADO

By:
George Stern, Jefferson County Clerk & Recorder

Date:

APPROVED AS TO FORM:

Jean R. Biondi
Assistant County Attorney

EXHIBIT A

Shared Election Costs are divided into "TABOR Election Costs" and "Non-TABOR Election Costs." TABOR Election Costs are the costs of printing and mailing Notice Packets and are allocated among only those jurisdictions that have Ballot Issues subject to TABOR, in accordance with Section I below. Non-TABOR Election Costs are all other Shared Election Costs and are allocated among all coordinating jurisdictions in accordance with Section II below.

Please note that the dollar amounts used in this Exhibit A are for illustration purposes only and do not reflect actual or estimated costs of the Election.

I. <u>Allocation of TABOR Election Costs</u>

This section only applies to Jurisdictions with Ballot Issues subject to TABOR.

The costs incurred by County Clerk during the Election for printing and mailing Notice Packets (the "TABOR Election Costs") are allocated among jurisdictions that have Ballot Issues subject to TABOR as follows:

1. First, the County Clerk ascertains the total printing and mailing costs for each unique Notice Packet version.
    a. Example: The County Clerk incurred costs of $400 to print and mail Notice Packet Version 1.
2. Next, the County Clerk divides the printing and mailing costs for each unique Notice Packet version by the total number of jurisdictions that used that version.
    a. Example: Notice Packet Version 1 was used by four jurisdictions, so each of these jurisdictions is allocated one-quarter (¼) of the costs for Version 1, or $100 each.
3. Finally, the County Clerk calculates each jurisdiction's total share of the TABOR Election Costs by adding up its allocated costs for each Notice Packet version that the jurisdiction used.
    a. Example: Jurisdiction C used three unique Notice Packet versions in the Election, and was allocated costs of $100, $250 and $350 for each version, respectively, so Jurisdiction C's total share of the TABOR Election Costs equals $700.

II. <u>Allocation of Non-TABOR Election Costs</u>

All Shared Election Costs besides the costs of printing and mailing Notice Packets (the "Non-TABOR Election Costs") are allocated among all coordinating jurisdictions as follows:

1. First, the County Clerk ascertains the total Non-TABOR Election Costs incurred during the Election.
    a. Example: The County Clerk incurred Shared Election Costs of $12,500 to administer the Election, of which $2,500 was incurred to print and mail Notice Packets, leaving a balance of $10,000 in Non-TABOR Election Costs.

2. Next, the County Clerk subtracts from the Non-TABOR Election Costs all reimbursements received by the County from the State of Colorado and other Election participants whose reimbursements are determined by law.

    a. Example: The County Clerk receives a reimbursement of $2,000 from the State of Colorado for the Election. The County Clerk subtracts this amount from the $10,000 in Non-TABOR Election Costs, leaving a balance of $8,000 in Non-TABOR Election Costs to be allocated among coordinating jurisdictions.

3. Next, the County Clerk ascertains the number of voters who received each unique ballot style used in the Election.

    a. Example: Utilizing a computer program, the County Clerk ascertains that Ballot Style 2 was delivered to 99 total voters.

4. Next, the County Clerk divides the number of voters who received each unique ballot style by the number of jurisdictions that used that ballot style. Election participants whose reimbursements are determined by law, such as the State of Colorado and the Scientific and Cultural Facilities District, are disregarded for purposes of this calculation.

    a. Example: Ballot Style 2 included content from the County, the State, Jurisdiction B and Jurisdiction C. The State's content is disregarded because its reimbursement is calculated by statute, leaving the County, Jurisdiction B, and Jurisdiction C, who are each allocated 33 voters for Ballot Style 2 (99 divided by 3).

5. Next, the County Clerk calculates each jurisdiction's total number of voters by adding up the total number of voters allocated to the jurisdiction for all ballot styles.

    a. Example: Jurisdiction C had content on Ballot Styles 1, 2 and 3, and was allocated 50, 33 and 17 voters on each style, respectively, so Jurisdiction C is allocated a total of 100 voters (50 plus 33 plus 17) for all ballot styles.

6. Next, the County Clerk calculates the percentage of Non-TABOR Election Costs that each jurisdiction is responsible for by dividing that jurisdiction's total voter allocation by the total number of voters who were provided ballots by the County Clerk in the Election.

    a. Example: The County Clerk provided ballots to a total of 10,000 voters in the Election, of which Jurisdiction C was allocated 100 total voters, so Jurisdiction C is responsible for 1% (100 divided by 10,000) of the balance of Non-TABOR Election Costs remaining after subtracting out reimbursements from the State of Colorado and other Election participants whose reimbursements are determined by law.

7. Finally, the County Clerk calculates each jurisdiction's share of the Non-TABOR Election Costs by multiplying its percentage responsibility by the total amount of Non-TABOR Election Costs incurred by the County minus all reimbursements from the State of Colorado and other Election participants whose reimbursements are determined by law.

a. Example: Jurisdiction C's share of the Non-TABOR Election Costs is 1% of the $8,000 balance of Non-TABOR Election Costs, or $80 ($8,000 multiplied by .01).

III. Calculation of Total Amount Due

1. The County calculates the total amount due from each coordinating jurisdiction by adding the Jurisdiction's share of the Non-TABOR Election Costs to the Jurisdiction's share of the TABOR Election costs (if the Jurisdiction had a Ballot Issue subject to TABOR). Each jurisdiction is assessed a minimum of $1,000, so if this total is less than $1,000, the jurisdiction would be assessed $1,000.

    a. Example: Jurisdiction C owes $700 in TABOR Election Costs and $80 in Non-TABOR Election Costs, which totals $780. Because this amount is less than the $1000 minimum, Jurisdiction C would be assessed a total of $1,000 in Shared Election Costs.

CITY OF ARVADA

# REPORT TO CITY COUNCIL RESOLUTION	AGENDA ITEM 8.B.2.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-108 A Resolution Authorizing a Second Amendment to the Intergovernmental Agreement Between the City of Arvada and the Arvada Urban Renewal Authority

Report in Brief

On October 20, 1986, the City entered into an Intergovernmental Agreement with Arvada Urban Renewal Authority ("AURA") to facilitate the efficiency and operation of AURA ("Original IGA"). On March 4, 1991, the Parties amended the Original IGA in the First Amendment to the Intergovernmental Agreement by and between the City of Arvada and the Arvada Urban Renewal Authority. Since 1991, the City and AURA have maintained a harmonious relationship, but also operate independently of one another in day-to-day operations. Given the parties' respective independence, this Second Amendment amends the Original IGA to remove the City Council's oversight of AURA's budget, approval of AURA's employees' salaries, and approval of AURA's executive director's salary.

The Arvada team recommends that the City Council approve R21-108, A Resolution Authorizing a Second Amendment to the Intergovernmental Agreement Between the City of Arvada and the Arvada Urban Renewal Authority.

Financial Impact

None.

Background

At the request of City Council, the City has come to an agreement with AURA to remove the City's oversight of AURA's budget, salaries, and employment decisions.

Discussion

In order to increase efficiency between AURA and the City, this Second Amendment allows the parties to operate more independently from one another. This Second Amendment would streamline the budget approval and employee salary determination process for AURA. Allowing AURA to make its own determinations saves the City time and ensures that the individuals who know most about AURA are in charge of its processes.

If City Council rejects this Second Amendment, City Council will continue to oversee AURA's budget, employee salaries, and executive director salary.

Public Contact

Posting on City Council Agenda and AURA Board Meeting held August 4, 2021.

Commission Recommendation

AURA approved the Second Amendment at its meeting on August 4, 2021.

Strategic Alignment

This Second Amendment aligns with the Organizational and Service Effectiveness Priority Area of the City Council Strategic Plan as it removes a process that the City Council has determined is duplicative given the relative independence of the AURA Board. This Amendment also furthers AURA's and the City's goal of preserving the City's historical legacy while continuing to create fresh and engaging public spaces.

Alternative Courses of Action

N/A.

Recommendation for Action

The Arvada team recommends that the City Council approve R21-108, A Resolution Authorizing a Second Amendment to the Intergovernmental Agreement Between the City of Arvada and the Arvada Urban Renewal Authority.

Suggested Motion:

I move that R21-108, A Resolution Authorizing a Second Amendment to the Intergovernmental Agreement Between the City of Arvada and the Arvada Urban Renewal Authority, be (approved) (rejected).

Prepared by:
Gail Walker, Legal Specialist-Contracts

Reviewed by:

Approved by:

Rachel Morris, City Attorney	7/29/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R 21-108

A RESOLUTION AUTHORIZING A SECOND AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ARVADA AND THE ARVADA URBAN RENEWAL AUTHORITY

WHEREAS, on October 20, 1986, the Parties entered into an Intergovernmental Agreement between the City of Arvada and Arvada Urban Renewal Authority ("AURA") to facilitate the efficiency and operation of AURA ("Original IGA"); and

WHEREAS, on March 4, 1991, the Parties amended the Original IGA in the First Amendment to the Intergovernmental Agreement by and between the City of Arvada and the Arvada Urban Renewal Authority ("First Amendment"); and

WHEREAS, since the 1991, the Parties have maintained a harmonious relationship, but also operate independently of one another in the Parties' day-to-day operations; and

WHEREAS, given the Parties' respective independence, the Parties wish to amend the Original IGA to remove City Council's oversight of AURA's budget, approval of AURA's employees' salaries, and approval of AURA's executive director's salary.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA THAT:

<u>Section 1.</u> City Council hereby authorizes the Mayor of Arvada to sign the Second Amendment to the Intergovernmental Agreement between the City of Arvada and the AURA. In substantially the same form as attached hereto.

<u>Section 2.</u> This Resolution to be in full force and effect from and after its passage and approval.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel A. Morris, City Attorney

By: ______________________________________

SECONDAMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ARVADA AND THE ARVADA URBAN RENEWAL AUTHORITY

1. **PARTIES.** The parties to this Second Amendment to the Intergovernmental Agreement between the City of Arvada and the Arvada Urban Renewal Authority are the City of Arvada, a Colorado home-rule municipal corporation whose mailing address is 8101 Ralston Road, Arvada, Colorado, 80002 ("City" or "Arvada") and AURA, a body corporate and politic in the State of Colorado whose mailing address is 5601 Olde Wadsworth Boulevard, Suite 210, Arvada, CO 80002 ("AURA").

2. **RECITALS AND PURPOSE.**

2.1 On October 20, 1986, the Parties entered into an Intergovernmental Agreement between the City of Arvada and AURA ("Original IGA") to facilitate the efficiency and operation of AURA.

2.2 On March 4, 1991, the Parties amended the Original IGA in the First Amendment to the Intergovernmental Agreement by and between the City of Arvada and the Arvada Urban Renewal Authority ("First Amendment").

2.3 Since the 1991, the Parties have maintained a harmonious relationship, but also operate independently of one another in the Parties' day-to-day operations.

2.4 Given the Parties' respective independence, the Parties wish to amend the Original IGA to remove City Council's oversight of AURA's budget, approval of AURA's employees' salaries, and approval of AURA's executive director's salary.

2.5 Therefore, the Parties agree to amend the Original IGA as follows:

3. **AMENDMENT TO TERMS AND CONDITIONS.**

3.1 Section 1. AURA Employees Provided by City, subsections D. and E. are hereby amended to state:

"D. The salaries of AURA's employees shall be fixed by the AURA Executive Director . The salaries of AURA employees shall be established, along with other benefits, in accordance with the salary and other benefits provided for similar employees of the City performing duties of equal responsibility."

"E. The selection and/or termination of all employees of AURA, except the Executive Director, shall be made by the AURA Executive Director."

3.2 Section 2. Conditions of Employment of Executive Director, subsections A. and B. are hereby amended to state:

"A. AURA shall hire its Executive Director. The City Manager will sit on

AURA's selection committee for the Executive Director position. The Executive Director shall be a contract employee of AURA and said contract may be renewable annually."

"B. The salary of the Executive Director of AURA shall be fixed by the AURA Board of Commissioners. The salary of AURA's Executive Director shall be established, along with other benefits, in accordance with the salary and other benefits provided for similar administrative officials of the City performing duties of equal responsibility."

3.3 Section 8., City Approval of AURA's Budget, is hereby deleted.

4. DOCUMENTS OTHERWISE UNCHANGED. Except for the specific amendments and/or modifications expressly made to the Original IGA by the First Amendment and by this Second Amendment, all other terms, conditions, obligations, requirements, and provisions described in the Original IGA shall remain in full force and effect. In the event of a conflict between the terms of the First Amendment, this Second Amendment, and the Original IGA, this Second Amendment shall control, then the First Amendment, then the Original IGA.

5. SEVERABILITY. If any other provision of this Second Amendment is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Second Amendment to shall continue in full force and effect.

6. BINDING AUTHORITY. AURA represents and affirms that the signature page hereof accurately states the full legal name of the AURA (whether as a corporation, partnership, limited liability company, sole proprietorship, or other), contains all requisite signature(s) on behalf of the AURA, has been properly acknowledged by attestation, notary acknowledgment, or both, and in all other respects is effective to bind the AURA, in accordance with all applicable statutes, regulations, resolutions, rules, bylaws, agreements, or similar sources of authority or limitation. This Second Amendment may be executed in counterpart(s), each of which shall be deemed to be an original, and all of which, taken together, shall constitute one instrument.

DATED THIS _____ day of ____________________________, 2021.

IN WITNESS WHEREOF, the Parties hereto have caused this Second Amendment to be executed.

Signatures begin on following page.

CITY OF ARVADA, a Colorado Home Rule Municipal Corporation

By: ________________________________
Marc Williams, Mayor

STATE OF COLORADO
COUNTY OF JEFFERSON

This Second Amendment to the Intergovernmental Agreement between the City of Arvada and the Arvada Urban Renewal Authority was acknowledged before me this _______ day of ____________, 2021, by Marc Williams for and on behalf of the City of Arvada, State of Colorado.

Witness my hand and official seal.

____
Notary Public

APPROVED AS TO FORM
Rachel Morris, City Attorney

By: ____________________________

ARVADA URBAN RENEWAL AUTHORITY

By: ________________________________
Alan Parker, AURA Chair

STATE OF COLORADO
COUNTY OF JEFFERSON

This Second Amendment to the Intergovernmental Agreement between the City of Arvada and the Arvada Urban Renewal Authority was acknowledged before me this _______ day of ____________, 2021, by Alan Parker for and on behalf of the Arvada Urban Renewal Authority.

Witness my hand and official seal.

____
Notary Public

APPROVED AS TO FORM:

____
Corey Y. Hoffmann, Counsel for AURA

REPORT TO CITY COUNCIL RESOLUTION

AGENDA ITEM 8.B.3.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: R21-109 A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and the U.S. Department of Housing and Urban Development for Community Development Block Grant Funding In the Amount of $455,945.00

Report in Brief

The purpose of this Intergovernmental Agreement is to allow the City of Arvada to enter into a funding agreement with the U.S. Department of Housing and Urban Development to accept the 2021 Community Development Block Grant entitlement in the amount of $455,945.

The agreement supports the Vibrant Community and Neighborhoods strategic result to improve access to quality housing affordable for a broad range of income levels.

The Arvada team recommends that the City Council approve R21-109 A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and the U.S. Department of Housing and Urban Development for Community Development Block Grant Funding In the Amount of $455,945.00

Financial Impact

The City of Arvada will receive $455,945 in Community Development Block Grant entitlement from the Department of Housing and Urban Development to support activities for low to moderate income families in Arvada.

Background

The Community Development Block Grant (CDBG) Entitlement Program provides annual grants on a formula basis to entitled cities and counties to develop viable urban communities by providing decent housing and a suitable living environment, and by expanding economic opportunities, principally for low- and moderate-income persons. The program is authorized under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended; 42 U.S.C.-530.1 et seq.

Since 1975, the City of Arvada has received an annual entitlement grant from the U.S. Department of Housing and Urban Development. These funds are utilized to help meet the needs of disadvantaged and at-risk citizens and neighborhoods to ensure decent affordable housing, to provide services to the most vulnerable in our communities, and to create jobs through the expansion and retention of businesses. Community Development Block Grant is an important tool for helping local governments tackle serious challenges facing their communities.

On November 2, 2020, Arvada City Council approved the 2021 Community Development Block Grant Annual Action Plan that identified activities to be carried out using CDBG funding. Those activities include:

- Essential Home Repairs Program
- Human Services Grant Program
- CDBG Program Administration

- Memorial Park Lighting Improvement Project

This funding from this agreement with the U.S. Department of Housing and Urban Development will be used to carry out the activities mentioned above.

Discussion

Our team evaluated the benefits of an intergovernmental agreement between the City of Arvada and the U.S. Department of Housing and Urban Development and determined this is in the best interest of the City. As stated previously, this action will provide resources that will support Strategic Results and milestones defined in the Vibrant Communities and Neighborhood Priority Area of the City Council Strategic Plan.

Public Contact

Annually, the City of Arvada completes a Citizen Participation Plan for use of the Community Development Block Grant entitlement. This Plan provides for and encourages citizen participation including involvement of low income residents where housing and community development funds may be spent. The City will take actions that are appropriate and reasonable for the participation of all its residents including minorities and non-English speaking persons as well as persons with disabilities.

Commission Recommendation

NA

Strategic Alignment

Approval of this resolution authorizing an Intergovernmental Agreement with the Department of Housing and Urban Development aligns with the Vibrant Community and Neighborhoods Priority Area within the City Council Strategic Plan Principle to, **"Improve access to quality housing that is affordable to a broad range of income levels and provides resources, housing, and neighborhood assistance services to Arvada residents, neighborhoods, property owners, and stakeholders."**

Alternative Courses of Action

N/A

Recommendation for Action

The Arvada team recommends that the City Council approve R21-109, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and the U.S. Department of Housing and Urban Development for Community Development Block Grant Funding In the Amount of $455,945.00.

Suggested Motion:

I move that R21-109, A Resolution Authorizing an Intergovernmental Agreement By and Between the City of Arvada and the U.S. Department of Housing and Urban Development for Community Development Block Grant Funding In the Amount of $455,945.00, be (approved) (rejected).

Prepared by:
Carrie Espinosa, Manager of Housing Preservation and Resources

Reviewed by:

Approved by:

Gordon Reusink, Director of Vibrant Community and Neighborhoods	8/2/2021
Bryan Archer, Director of Finance	8/3/2021
Gail Walker, Legal Specialist-Contracts	8/3/2021
Kylie Justus, Assistant City Attorney	8/3/2021
Rachel Morris, City Attorney	8/4/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

RESOLUTION NO. R21-109

A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE CITY OF ARVADA AND THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING IN THE AMOUNT OF $455,945.00

WHEREAS, the City of Arvada has the opportunity to enter into an Intergovernmental Agreement with the U.S. Department of Housing and Urban Development (HUD) for funding from the Community Development Block Grant (CDBG) in the amount of $455,945.00; and

WHEREAS, the agreement supports the Vibrant Community and Neighborhoods strategic result to improve access to quality housing affordable for a broad range of income levels.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk to attest, in a form approved by the City Attorney, an Agreement, which is in substantially the same form as attached intergovernmental agreement by and between the City of Arvada and the U.S. Department of Housing and Urban Development.

Section 2. This resolution shall be effective upon its approval by the City Council.

APPROVED AND ADOPTED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:
Rachel Morris, City Attorney

By: __________________________________

Funding Approval/Agreement
Title I of the Housing and Community Development Act (Public Law 930383)
HI-00515R of 20515R

U.S. Department of Housing and Urban Development
Office of Community Planning and Development
Community Development Block Grant Program

OMB Approval No. 2506-0193
exp 5/31/2018

1. Name of Grantee (as shown in item 5 of Standard Form 424) Arvada	3a. Grantee's 9-digit Tax ID Number 846000633	3b. Grantee's 9-digit DUNS Number 085285138
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) 8001 Ralston Road Arvada, CO 80002-0000	4. Date use of funds may begin 01/01/2021	
	5a. Project/Grant No. 1 B-21-MC-08-0001	6a. Amount Approved $455,945
	5b. Project/Grant No. 2	6b. Amount Approved

Grant Agreement: This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) Kathleen S. Burke		Grantee Name (Contractual Organization) Arvada	
Title CPD Director		Title	
Signature X Signed by: KATHLEEN BURKE	Date (mm/dd/yyyy) 07/26/2021	Signature X	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action: Entitlement, Sec 106(b)	8. Special Conditions (check one) ☐ None ☒ Attached	9a. Date HUD Received Submission 04/30/2021 9b. Date Grantee Notified 07/26/2021 9c. Date of Start of Program Year 01/01/2021	10. check one ☒ a. Orig. Funding Approval ☐ b. Amendment Amendment Number

11. Amount of Community Development

Block Grant	FY 2021		
a. Funds Reserved for this Grantee	$455,945		
b. Funds now being Approved			
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved N/A	12b. Name and complete Address of Public Agency Arvada 8001 Ralston Road Arvada, CO 80002-0000
Loan Guarantee Acceptance Provisions for Designated Agencies: The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.	12c. Name of Authorized Official for Designated Public Agency N/A Title N/A Signature N/A

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153											
	176		Y					Project Number		Amount		
			Y					Project Number		Amount		

Date Entered PAS (mm/dd/yyyy)	Date Entered LOCCS (mm/dd/yyyy)	Batch Number	Transaction Code	Entered By	Verified By

8. Special Conditions.

(a) The period of performance for the funding assistance specified in the Funding Approval ("Funding Assistance") shall begin on the date specified in item 4 and shall end on September 1, 2027. The Grantee shall not incur any obligations to be paid with such assistance after September 1, 2027.

(b) The Recipient shall attach a schedule of its indirect cost rate(s) in the format set forth below to the executed Agreement that is returned to HUD. The Recipient shall provide HUD with a revised schedule when any change is made to the rate(s) described in the schedule. The schedule and any revisions HUD receives from the Recipient shall be incorporated herein and made a part of this Agreement, provided that the rate(s) described comply with 2 CFR part 200, subpart E.

Administering Department/Agency	Indirect cost rate	Direct Cost Base
__________________	______%	__________
__________________	______%	__________
__________________	______%	__________
__________________	______%	__________
__________________	______%	__________

Instructions: The Recipient must identify each agency or department of the Recipient that will carry out activities under the grant, the indirect cost rate applicable to each department/agency (including if the de minimis rate is used per 2 CFR §200.414(f)), and the type of direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTDC)). Do not include indirect cost rates for subrecipients.

(c) In addition to the conditions contained on form HUD 7082, the grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS); the System for Award Management (SAM.gov.); the Federal Funding Accountability and Transparency Act as provided in 2 CFR part 25, Universal Identifier and General Contractor Registration; and 2 CFR part 170, Reporting Subaward and Executive Compensation Information.

(d) The grantee shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water- related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain.

(e) The Grantee or unit of general local government that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

(f) E.O. 12372-Special Contract Condition - Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

(g) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." (Source - P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund).

CITY OF ARVADA

REPORT TO CITY COUNCIL ORDINANCE FIRST READING

AGENDA ITEM 8.C.1.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: CB21-029, A Ordinance Repealing Chapter 10, Amusements and Entertainment, of the Arvada City Code (Public Hearing to be set for September 13, 2021 at 6:15 p.m.)

Report in Brief

The Arvada City Council initially adopted ordinances regulating amusement arcades and other similar businesses in the 1960's, before the proliferation of handheld electronic devices, gaming systems, smartphones, tablets, and other types of technology that allow ease of access to games and entertainment. Because of the changes in this industry and to better compete with neighboring jurisdictions in order to encourage business in Arvada, the Arvada team recommends that the current City Code provisions in Chapter 10, relating to Amusements and Entertainment be repealed.

The Arvada team recommends that the City Council approve CB21-029, An Ordinance Repealing Chapter 10, Amusements and Entertainment, of the Arvada City Code.

Financial Impact

Revenue would be decreased by approximately $4,000 per year.

Background

The City of Arvada has regulated amusement and entertainment establishments since the early 1960's. At the time the ordinance was first adopted, these types of establishments were very popular in municipalities and became a place for youth to gather. It was necessary at that time to put into place regulations addressing disturbances of public peace, use of alcohol on the premises, and hours of operation for minors. Background investigations were also required for the managers and officers of corporations. Yearly license fees were established, along with a device fee as a way to cover the costs of processing applications, renewals, background investigations and disturbances. The City currently has 15 amusement establishments which produce approximately $4,000 per year in revenue. Four of these establishments pay the bulk of the fees, all of which are small businesses. The remaining eleven pay $100.00 per location for the ability to have 1 or 2 small coin operated machines, such as a toy claw machine.

Discussion

The City of Arvada promotes and facilitates the establishment and growth of businesses in the City. There have been recent inquiries from individuals wanting to open an amusement type facility in Arvada but were discouraged by the regulations and fees in our City Code, and in fact, found they could go to almost any surrounding municipality in the Denver metro area without having to comply with any Code provisions or pay any fees. The Arvada team finds that it is in the best interest of the City to compete with neighboring jurisdictions in order to encourage business in Arvada and that the fee-based revenue received from these amusement establishments is minimal compared to the cost of processing applications, renewals, and licensure fees. The team also feels that the regulatory provisions in this ordinance are outdated and no longer needed in the City.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

N/A

Strategic Alignment

The recommended action aligns with the Community and Economic Development Priority Area and specifically supports the following Principle:

Supports the community's vision by cultivating an environment that attracts and retains private-sector investment, a talented workforce, and an engaged business community.

Alternative Courses of Action

City Council could choose not to repeal Chapter 10 of the Arvada City Code. The City can continue to regulate and charge fees for amusement establishments, however we may continue to lose businesses to other jurisdictions in the metro area.

Recommendation for Action

The Arvada team recommends that the City Council approve CB21-029, An Ordinance Repealing Chapter 10, Amusements and Entertainment, of the Arvada City Code and set a public hearing date for September 13, 2021 at 6:15 p.m.

Suggested Motion:

I move that CB21-029, An Ordinance Repealing Chapter 10, Amusements and Entertainment, of the Arvada City Code, be (approved on first reading, ordered published in full and a public hearing date be set for September 13, 2021 at 6:15 p.m.)(rejected).

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Kristen Rush, City Clerk	7/29/2021
Kylie Justus, Assistant City Attorney	7/30/2021
Rachel Morris, City Attorney	8/3/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 21-029

ORDINANCE NO.

AN ORDINANCE REPEALING CHAPTER 10, AMUSEMENTS AND ENTERTAINMENT, OF THE ARVADA CITY CODE

WHEREAS, the City Council has determined that Arvada is a municipality that seeks to facilitate the establishment and growth of businesses; and

WHEREAS, Council finds that it is in the best interest of the city to compete with neighboring jurisdictions in order to encourage business in Arvada; and

WHEREAS, Council finds that is important to respond to changes in industry; and

WHEREAS, Council initially adopted the ordinances regulating amusement arcades and other similar businesses in the 1960's, before the proliferation of handheld electronic devices, gaming systems, smartphones, tablets, and other types of technology that allow ease of access to games and entertainment; and

WHEREAS, Council finds that the revenue received from amusement centers, arcades, and devices is minimal compared to the cost of processing applications, renewals, and licensure fees.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Chapter 10, Amusements and Entertainment, of the Arvada City Code is hereby repealed in its entirety.

Section 2. This ordinance shall be effective five days after publication following final passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this 16th day of August, 2021.

PASSED, ADOPTED, AND APPROVED this ______ day of ________, 2021.

____

Marc Williams, Mayor

ATTEST:

____

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: ____

Publication Dates: August 19, 2021

Chapter 10 AMUSEMENTS AND ENTERTAINMENT[1]

[1]Cross reference(s)—Businesses, ch. 22.

State law reference(s)—Power of city council to regulate obscene, etc., performance, C.R.S. § 31-15-401; power of city council to license, tax and regulate amusements and places of amusements generally, C.R.S. § 31-15-501.

ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

ARTICLE II. AMUSEMENT DEVICES

DIVISION 1. GENERALLY

Sec. 10-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement arcade means a place of business where an individual, association, partnership or corporation maintains more than ten amusement devices.

Amusement center means a place of business where an individual, association, partnership or corporation maintains less than 11 amusement devices either as a sole business or in conjunction with some other business.

Amusement device means any device which, upon insertion of a coin, slug, token, plate or disc, or payment of a consideration, may be used by the public as a game, entertainment, amusement, a test of skill, either mental or physical, whether or not registering a score, which shall include but shall not be limited to: Foosball tables and pinball machines; but shall not include radios, devices that provide music only, bowling lanes, pool or snooker tables, television carrying commercial broadcasts only or fixed-stand coin-operated kiddie rides.

Applicant means any individual, association, partnership or corporation requesting a license pursuant to this article.

Manager means an individual who manages, directs, supervises, oversees and administers the acts and transactions of the agents or servants of any establishment governed by this article, or who, through his own actions, directs, oversees and administers the affairs of any such establishments.

(Code 1960, § 5-1; Code 1981, § 5-11; Ord. No. 2637, § 1, 8-7-1989)

Cross reference(s)—Definitions, § 1-2.

Sec. 10-32. Hours of operation; minors.

No establishment licensed pursuant to the provisions of this article shall permit any person under the age of 18 years to operate any amusement device except between the hours of 10:00 a.m. and 11:00 p.m., Sunday through Thursday, and between the hours of 10:00 a.m. and midnight, Friday and Saturday, unless such person is accompanied by a parent or guardian. Each such establishment shall post in a conspicuous place on its premises, notice of the permitted hours of operation of amusement devices for minors. Failure of any such establishment to comply with the requirements of this section shall be grounds for revocation of the establishment's license.

(Code 1960, § 5-8.3; Code 1981, § 5-12; Ord. No. 1903, § 3, 1-17-1983; Ord. No. 1908, § 1, 4-18-1983)

Sec. 10-33. Gambling.

Nothing in this article shall be construed to permit any unlawful gambling or wagering within the city.

(Code 1960, § 5-8.2; Code 1981, § 5-13)

State law reference(s)—Gambling, C.R.S. § 18-10-101 et seq.

Sec. 10-34. Registration of owner and devices.

It shall be the duty of any owner or lessee of any premises in the city upon which any amusement devices are kept to register with the city clerk the owner and serial number of each amusement device kept on the premises.

(Code 1981, § 5-14; Ord. No. 1903, § 4, 1-17-1983)

Sec. 10-35. Reporting of disorderly conduct.

(a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assault is defined as set forth in section 62-31.

Disorderly conduct is defined as set forth in section 62-50.

Harassment is defined as set forth in section 62-31.

Premises, for purposes of this section, is defined as the interior and indoor portions of the amusement arcade business, including those areas not open to the public.

(b) *Reports.* It shall be unlawful for any amusement arcade licensee, or any agent, manager, or employee thereof, to fail to immediately report any disorderly conduct, assault, harassment, or any other criminal activity occurring on or within the premises.

(c) *Warning signs shall be displayed.* Each amusement arcade licensee shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall be in the following form:

"WARNING: The city police department must be notified of all disturbances, including assault, disorderly conduct, harassment, and any other criminal activities which occur on or within the premises of this establishment."

(d) *Absence of licensee not a defense.* It shall not be a defense to a prosecution of an amusement arcade licensee under this section that the licensee was not personally present on the premises at the time such unlawful or disorderly act, conduct, or disturbance was committed; provided, however, that an agent, servant, or employee of the licensee shall not be responsible hereunder when such agent, servant, or employee is absent from the premises.

(e) *Criminal offense.* A violation of this section is also a criminal offense, punishable by a fine as provided in section 1-5.

(Code 1981, § 5-15; Ord. No. 3479, § 1, 8-31-1998)

Secs. 10-36—10-60. Reserved.

DIVISION 2. LICENSE

Sec. 10-61. Required.

No amusement arcade shall conduct business within the city without a valid amusement arcade license. No amusement center operator shall allow any amusement device on the premises to be operated without first obtaining a valid amusement center license; provided, however, that the provisions of sections 10-62 through 10-65 and 10-70 shall not apply to amusement center licenses issued pursuant to this article.

(Code 1960, § 5-2(A); Code 1981, § 5-21; Ord. No. 1903, § 4.1, 1-17-1983)

Sec. 10-62. Application; contents.

An application for an amusement arcade license shall be filed with the city clerk and shall be accompanied by the fees required by this article and shall contain the following information:

(1) The name and address of the amusement arcade.

(2) The name and address of the applicant, with his age, date and place of birth.

(3) Evidence from the planning director that the location of the proposed amusement arcade meets all of the zoning requirements of the city.

(4) Where applicant is a corporation, association, partnership or private club, the information required in subdivision (2) shall be furnished as to each member of the association, or each officer of the corporation, and members of the board of directors of the corporation and the holders of ten percent or more of the corporate stock of any class.

(5) Prior conviction of any of the persons listed in this section of any law except traffic violations, if any.

(6) The number of amusement devices to be maintained at the amusement arcade.

(7) The name, age and prior felony convictions of any proposed manager of the establishment.

(Code 1960, § 5-3; Code 1981, § 5-22)

Sec. 10-63. Review by city manager.

An application for the license required by this article shall be reviewed by the city manager. The city manager shall have an investigation conducted by the police department, sufficient to verify all the information required by this division. On completion of this investigation, the city manager shall either approve or disapprove the application.

(Code 1960, § 5-4(A); Code 1981, § 5-23)

Sec. 10-64. Refusal.

(a) The city manager may refuse to issue any license for an amusement arcade if the city manager should find any of the following:

   (1) That the applicant is under the age of 21 years; or

   (2) That the applicant, manager or any of them has made false statements upon the application; or

   (3) That the applicant, manager or any of them is not of good moral character.

(b) No license shall be issued for an amusement arcade located within 500 feet of any grade school, junior high school or senior high school.

(c) In the event the city manager disapproves a license application, the city manager shall make written findings of fact stating the reasons for the disapproval.

(Code 1960, § 5-4(B), (C); Code 1981, § 5-24; Ord. No. 1712, § 1, 1-5-1981)

Sec. 10-65. Approval.

No license under this article shall be issued to any applicant unless approved by the city manager.

(Code 1960, § 5-4(B); Code 1981, § 5-25)

Sec. 10-66. Fees.

(a) Applicants for or holders of an amusement arcade license shall pay a yearly license fee of $500.00. Applicants for or holders of an amusement center license having six to ten amusement devices on the premises shall pay a yearly license fee of $250.00. Applicants for or holders of an amusement center license having five or fewer amusement devices on the premises shall pay a yearly license fee of $100.00.

(b) Operators of amusement arcades shall pay a yearly fee of $35.00 per amusement device maintained upon the premises, and operators of amusement centers shall pay a yearly fee of $70.00 per amusement device maintained upon the premises; provided, however, that in the event that any amusement device for which the amusement device fee has been paid is removed from the premises, the fee paid shall be transferable to any replacement device brought on to the premises during the same calendar year and no additional fee shall be payable. In no event shall the operator of an amusement arcade or amusement center be entitled to a refund of any fees in the event that the number of amusement devices maintained upon the premises is reduced during a calendar year.

(c) Applicants for an amusement arcade license shall pay an investigation fee of $300.00 to cover the cost of investigation required by this article.

(d) The city clerk shall issue a receipt for the payment of these fees.

(e) Effective January 1, 1985, any operator of an amusement center who maintains two or fewer amusement devices upon licensed premises shall not be subject to payment of the yearly fee, as provided in subsection (b) of this section, for amusement devices maintained upon such licensed premises.

(Code 1960, § 5-7; Code 1981, § 5-26; Ord. No. 1903, §§ 5, 6, 1-17-1983; Ord. No. 2054, § 1, 4-16-1984)

Sec. 10-67. Payment of fees.

No amusement arcade shall conduct business within the city without first paying the fee placed upon amusement devices imposed by this article, and no amusement center operator shall allow any amusement devices upon the premises to be operated without first paying the fee placed upon amusement devices by this article.

(Code 1960, § 5-2(B); Code 1981, § 5-27; Ord. No. 1903, § 7, 1-17-1983)

Sec. 10-68. Display.

The holder of any license or receipt issued pursuant to the terms of this article shall prominently display the same upon the premises for which the license is issued.

(Code 1960, § 5-8.1; Code 1981, § 5-28)

Sec. 10-69. Transfer.

Any license or receipt issued pursuant to the terms of this article shall not be transferable to any other location in the city. In the event of transfer of ownership of the business at the same location for which a license or tax receipt is issued pursuant to the terms of this article, a license may be transferred to the new owner of the business; provided, however, that if the transfer involves an amusement arcade license, application therefor stating the same information as required by section 10-62 is first presented to the city manager for approval or disapproval, accompanied by the $500.00 license fee and the $300.00 investigation fee, as required by section 10-66. Approval or disapproval of such transfer shall be upon the same terms as approval or disapproval of a license as required by the terms of this article.

(Code 1960, § 5-8.1; Code 1981, § 5-29; Ord. No. 1903, § 8, 1-17-1983)

Sec. 10-70. Suspension or revocation.

(a) The city manager may, after giving the licensee a reasonable opportunity to be heard in accordance with section 2-171 et seq., suspend or revoke any license granted pursuant to this article upon a finding of any of the following factors:

    (1) That any of the amusement devices maintained upon the premises are being used for gambling purposes.

    (2) That repeated disturbances of public peace, involving patrons, employees or the holder of the license of the establishment, have been occurring within the licensed establishment or upon any parking areas, sidewalks, walkways, accessways or grounds immediately adjacent to the licensed premises.

    (3) That the holder of the license or any employees thereof are illegally offering for sale, or illegally allowing to be consumed upon the licensed premises, or upon any parking areas, sidewalks, walkways, accessways or grounds immediately adjacent to the licensed premises, narcotics or dangerous drugs.

    (4) That the holder of the license or an approved manager is not upon the licensed premises at all times.

    (5) That the use of the amusement devices in the licensed establishment occurs during the hours when such operation is prohibited pursuant to section 10-32.

    (6) That malt, vinous or spirituous beverages or fermented malt beverages are being consumed by the patrons of the licensed establishment upon any parking areas, sidewalks, walkways, accessways or grounds immediately adjacent to the licensed premises.

    (7) That malt, vinous or spirituous beverages are being consumed by patrons of the licensed establishment upon the licensed premises unless:

a. The only alcoholic beverages being consumed are malt and vinous beverages as defined by the Colorado Liquor Code; and

b. Not less than 50 percent of the weekly gross receipts of said licensed establishment are derived from the sale of food and nonalcoholic beverages; and

c. The sale of malt and vinous beverages does not exceed 20 percent of the weekly gross receipts of the licensed establishment; and

d. Malt or vinous beverages are not sold, served, brought to or consumed in any room or area in which amusement devices are located.

(8) That a person under the age of 19 years is a manager of the licensed establishment.

(9) That the holder of the license, or his agent, manager, or employee has been found guilty of, pleaded guilty to, pleaded no contest to, or entered into a plea bargain related to a violation of section 10-35.

(b) Nothing in this article shall prohibit the city from taking any other enforcement action provided for by this Code or the laws of the state or of the United States.

(Code 1960, § 5-8; Code 1981, § 5-30; Ord. No. 1690, § 1, 9-2-1980; Ord. No. 1903, § 9, 1-17-1983; Ord. No. 3479, § 2, 8-31-1998)

Sec. 10-71. Term.

(a) All licenses granted pursuant to this article shall expire at midnight on December 31 of each year.

(b) When an application for an amusement arcade license or amusement center license is submitted after the expiration of part of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter during which the business has been or will be conducted.

(Code 1960, § 5-5; Code 1981, § 5-31; Ord. No. 1903, § 10, 1-17-1983)

Sec. 10-72. Renewal.

Renewal of any of the licenses granted pursuant to this article may be had by payment of the licensing fee along with a statement that the information listed on the original license application is still true and correct to the applicant's knowledge, or a statement listing those items of information required for a license application which have changed in the year since the license was granted or last renewed. No license shall be renewed unless and until all fees and taxes due are paid.

(Code 1960, § 5-6; Code 1981, § 5-32; Ord. No. 1903, § 11, 1-17-1983)

Secs. 10-73—10-90. Reserved.

DIVISION 3. SPECIAL EVENT PERMITS

Sec. 10-91. Special permits authorized.

The city manager may issue a special event permit to an establishment licensed pursuant to the provisions of this article, to permit the use by minors of amusement devices after normal hours of operation as regulated by section 10-32.

(Code 1981, § 5-45; Ord. No. 1929, § 1, 5-2-1983)

Sec. 10-92. Grounds for issuance of special permits.

A special event permit may be issued only upon a satisfactory showing by an organization that use by minors of amusement devices after normal hours of operation is necessary by reason of the nature of the special event being scheduled.

(Code 1981, § 5-46; Ord. No. 1929, § 1, 5-2-1983)

Sec. 10-93. Application fees for special permits.

Special event permit fees are:

(1) Ten dollars for a special event whose sole purpose is to raise funds for a charitable purpose.

(2) Twenty-five dollars for all other special events.

(Code 1981, § 5-47; Ord. No. 1929, § 1, 5-2-1983)

Sec. 10-94. Applications for special permit.

Every application for a special event permit shall be accompanied by the following:

(1) An information sheet containing the following information:

a. Name and address of the person who will be in charge of the special event.

b. Nature and purpose of the event, including whether its sole purpose is to raise funds for a charitable purpose.

c. Information outlining proposed supervision of minors after normal hours to ensure against the creation of any disturbance of the public peace, sale or consumption of any narcotics or dangerous drugs, or consumption of any malt, vinous or spirituous beverage by any such minor, within the licensed establishment or upon any parking areas, sidewalks, walkways, accessways or grounds immediately adjacent to the licensed premises.

(2) Applicable application fee.

(Code 1981, § 5-48; Ord. No. 1929, § 1, 5-2-1983)

Sec. 10-95. Restrictions related to permits.

(a) Each special event permit shall be issued for a specific time and location and is valid only for that time and location.

(b) A special event permit may not be issued to any licensed establishment for more than ten occasions in one calendar year.

(c) No issuance of a special event permit shall have the effect of requiring the city manager to issue such a permit upon any subsequent application by a licensed establishment.

(Code 1981, § 5-49; Ord. No. 1929, § 1, 5-2-1983)

Sec. 10-96. Grounds of denial of special permit.

The city manager may deny the issuance of a special event permit upon the grounds that such issuance would be injurious to the public welfare by reason of the nature of the special event, its location within the community, or the failure of the applicant in a past special event to conduct such event in compliance with applicable laws and regulations.

(Code 1981, § 5-50; Ord. No. 1929, § 1, 5-2-1983)

CITY OF ARVADA

REPORT TO CITY COUNCIL PUBLIC HEARING	AGENDA ITEM 10.A.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: CB21-020 An Ordinance Amending Chapter 54, Motor Vehicles and Traffic, of the Arvada City Code (Ordinance No. 4772)

Report in Brief

The Mobility & Planning Innovations (MPI) Division of Arvada Public Works along with the City Attorney's Office is proposing an update to revise the adopted Colorado Model Traffic Code, to allow scooters and electric assist bikes on public roadways. The City's ordinance also supplements the state updates by restricting shared micromobility through a permit process as part of a pilot program. The pilot program will allow the City and micromobility vendors to collect data and evaluate the service as a "first and last mile" solution to transit and ultimately keep the program with renewed permits or end the pilot project if it's not successful in the Arvada community.

The Arvada team recommends that the City Council approve CB21-020, An Ordinance Amending Chapter 54, Motor Vehicles and Traffic, of the Arvada City Code on final reading.

Financial Impact

The City of Arvada has created a fee-per-permit and fee-per-ride structure associated with the Shared Micromobility program. The permit revenue generated from the pilot program is estimated at $12,000 per year, which will be used by Arvada Public Works for signing, striping, parking, and other traffic control expenses incurred by the City to support safety and operation of the mobility devices on the City's transportation system.

Background

Per information previously presented to City Council at workshops, the City of Arvada is responding to transportation innovations known as micromobility that have the potential to provide a specific "first and last mile" solution to access transit.

Shortly after the RTD G-Line Commuter Rail service started operating in 2019, the Citizen's Transportation Advisory Committee started to evaluate the number of bicycles in the G-Line cars and also started to monitor station parking and passenger drop off. While parking facilities towards the end-of-line stations were constantly nearing capacity, the Committee observed that the bike racks in the train cars were also full and discussed "first and last mile" solutions to help with these two challenges. The Committee reviewed an array of options including infrastructure updates that would reconstruct walk routes to the stations, shuttle circulator service, and shared micromobility. In early 2020, the Committee presented information to City Council about proceeding with shared micromobility as a first and last mile solution that would be privately operated and offer the public with transportation solutions in conjunction with transit to meet the City's Multi-Modal Transportation Plan goals and objectives.

In 2020, following the Committee's presentation to Council, team members from the MPI Division of Public Works developed a roadmap to allow for e-bikes and e-scooters on municipal trails and roadways, first for personal use and then as a shared micromobility option. Team members went through a public outreach process and worked with various departments including Code Enforcement, PD, Parks, and etc. The results - focused on personal micromobility devices on trails - were presented to City Council in early 2021.

MPI Division and City Attorney's Office team members have worked to develop a pilot program related to the Shared Micromobility option and have presented the information on the proposed ordinance at the July 26, 2021, City Council Workshop. The ordinance is intended to supplement the Colorado Model Traffic Code and establish a managed roll-out of shared micromobility devices that would provide first and last mile connectivity to the G-Line commuter rail. Our team presented the results from four (4) public meetings as part of the outreach process and reviewed the ordinance language related to the pilot program.

Discussion

The Colorado Model Traffic Code is used by Arvada Police for traffic enforcement purposes. The City team is proposing the adoption of updated "rules of the road" that include a reclassification of scooters as vehicles and electric assist bicycles, known as micromobility. The City of Arvada is adding municipal regulations to manage and permit "shared" micromobility that is permitted under the updated Model Traffic Code, allowing a limited number of companies and e-devices to operate in the City. Under the City's code, shared micrmobility devices will be operating using a permit requirement.

It is important to note that the permit requires data sharing and fees to cover Public Works costs and create a system that can be self enforcing. The fiscal impact is neutral under this plan, and the rules associated with the permit structure minimizes risk to the City of Arvada while positioning companies as a primary contact for operating issues, public complaints, and liability.

Public Contact

The Arvada team has used SpeakUp Arvada to hold four public meetings, answer community questions, and guide constituents to the project page (https://speakup.arvada.org/shared-micromobility). On the SpeakUp page, members of the public are able to take a survey, provide input, and use the project email for follow-up questions and communication (e-mobility@arvada.org).

Commission Recommendation

The Citizen's Transportation Advisory Committee has been engaged in the work associated with the Mobility and Planning Innovations Division and supports the implementation of the micromobility pilot program as described herein.

Strategic Alignment

The recommended action that would amend Chapter 54 of the City Code as described herein aligns with the Infrastructure Priority Area of the City Council Strategic Plan. Specifically, the recommended action supports the following Principle within the Infrastructure Priority Area:

Provides safe and efficient connections to modes of transportation, including transit, streets, sidewalks, and bikeways with a focus on enhanced technology... minimizing traffic congestion.

In addition, the recommended action aligns with the Community and Economic Development Priority Area and specifically supports the following Principle:

Supports the community's vision by cultivating an environment that attracts and retains private-sector investment, a talented workforce, and an engaged business community.

Alternative Courses of Action

N/A.

Recommendation for Action

The Arvada team recommends that the City Council approve CB21-020, An Ordinance Amending Chapter 54, Motor Vehicles and Traffic, of the Arvada City Code, be approved on final reading, numbered 4772 and ordered published in full.

Suggested Motion:

I move that CB21-020, An Ordinance Amending Chapter 54, Motor Vehicles and Traffic, of the Arvada City Code, be (approved on final reading, numbered 4772 and ordered published in full) (rejected).

Prepared by:
John Firouzi, Senior Transportation Planner

Reviewed by:

Approved by:

John Firouzi, Senior Transportation Planner	7/28/2021
Don Wick, Director of Public Works	7/28/2021
Bryan Archer, Director of Finance	7/28/2021
Gail Walker, Legal Specialist-Contracts	7/29/2021
Erika Pierce, Litigation Paralegal	7/30/2021
Rachel Morris, City Attorney	8/3/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 21-020
ORDINANCE NO. 4772

AN ORDINANCE AMENDING CHAPTER 54, MOTOR VEHICLES AND TRAFFIC, OF THE ARVADA CITY CODE

WHEREAS, Arvada's City Council Strategic Plan provides that, in supporting infrastructure, Arvada provides safe and efficient connections to modes of transportation, including transit, streets, sidewalks, and bikeways with a focus on enhanced technology at high-priority intersections improving safety and minimizing traffic congestion; and

WHEREAS, innovative transportation technologies have resulted in the creation and operation of personal transportation devices in more communities around the nation; and

WHEREAS, micromobility is designed to address certain "last mile" transportation needs in urban and suburban settings; and

WHEREAS, advances in micromobility technology carry the promise of reducing congestion in ways that increase reliance on clean energy and create little or no pollution; and

WHEREAS, micromobility also brings with it regulatory, infrastructure, and other challenges; and

WHEREAS, the City Council finds that the adoption of new transportation technologies should be done in ways that allow for the thoughtful evaluation and efficient operation of micromobility options that may benefit those living, working, or traveling in Arvada; and

WHEREAS, the City Council also deems it necessary to update traffic laws that recognize the increasing use of micromobility devices and to protect the safety of users, pedestrians, and drivers.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Section 54-33, MTC Part 2 "Equipment" amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, is hereby amended to read as follows:

"Sec. 54-33. MTC Part 2 "Equipment" amended.

The Model Traffic Code is hereby amended by amending section 221 of Part 2, to read as follows:

221. Bicycle, electric scooter, and personal mobility device equipment.

(1) No other provision of this part 2 of this Code shall apply to a bicycle, electrical assisted bicycle, electric scooter, or EPAMD or to equipment for use on a bicycle, electrical assisted bicycle, electric scooter, or EPAMD except those provisions in this Code made specifically applicable to such a vehicle.

(2) Every bicycle, electrical assisted bicycle, electric scooter, or EPAMD in use at the times described in section 204 shall be equipped with a lamp on the front emitting a white light visible from a distance of at least five hundred feet to the front.

(3) Every bicycle, electrical assisted bicycle, electric scooter, or EPAMD shall be equipped with a red reflector of a type approved by the department, which shall be visible for six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(4) Every bicycle, electrical assisted bicycle, electric scooter, or EPAMD when in use at the times described in section 204 shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred feet.

(5) A bicycle, electrical assisted bicycle, electric scooter, or EPAMD or its rider may be equipped with lights or reflectors in addition to those required by subsections (2) to (4) of this section.

(6) A bicycle, electrical assisted bicycle, or electric scooter shall not be equipped with, nor shall any person use upon a bicycle, electrical assisted bicycle, or electric scooter, any siren or whistle.

(7) Every bicycle, electrical assisted bicycle, or electric scooter shall be equipped with a brake or brakes that will enable its rider to stop the bicycle, electrical assisted bicycle, or electric scooter within twenty-five feet from a speed of ten miles per hour on dry, level, clean pavement.

(8) A person engaged in the business of selling bicycles, electrical assisted bicycles, or electric scooters at retail shall not sell any bicycle, electrical assisted bicycle, or electric scooter, unless the bicycle, electrical assisted bicycle, or electric scooter has an identifying number permanently stamped or cast on its frame.

(9)

(a) Every manufacturer or distributor of new electrical assisted bicycles intended for sale or distribution in this state shall permanently affix to each electrical assisted bicycle, in a prominent location, a label that contains the classification number, top assisted speed, and motor wattage of the electrical assisted bicycle. The label must be printed in the Arial font in at least nine-point type.

(b) A person shall not knowingly modify an electrical assisted bicycle so as to change the speed capability or motor engagement of the electrical assisted bicycle without also appropriately replacing, or causing to be replaced, the label indicating the classification required by subsection (9)(a) of this section.

(10)

(a) An electrical assisted bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States consumer product safety commission and codified at 16 CFR 1512 or its successor regulation.

(b) A class 2 electrical assisted bicycle must operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied. Class 1 and class 3 electrical assisted bicycles must be equipped with a mechanism or circuit that cannot be bypassed and that causes the electric motor to disengage or cease to function when the rider stops pedaling.

(c) A class 3 electrical assisted bicycle must be equipped with a speedometer that displays, in miles per hour, the speed the electrical assisted bicycle is traveling."

The remaining portions of sec. 54-33 shall remain unchanged.

<u>Section 2.</u> Section 54-36, MTC Part 8 "Pedestrians" amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, is hereby amended to read as follows:

"Sec. 54-36. MTC Part 8 "Pedestrians" amended.

The Model Traffic Code is hereby amended by amending section 802 of Part 8 to read as follows:

802. Pedestrians' right-of-way in crosswalks.

(1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) Subsection (1) of this section shall not apply under the conditions stated in section 803.

(3) No pedestrian shall suddenly leave a curb or other place of safety and ride a bicycle, ride an electrical assisted bicycle, ride an electric scooter, walk, or run into the path of a moving vehicle that is so close as to constitute an immediate hazard.

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(5) Whenever special pedestrian-control signals exhibiting "Walk" or "Don't Walk" word or symbol indications are in place, as declared in the traffic control manual adopted by the department of transportation, such signals shall indicate and require as follows:

(a) "Walk" (steady): While the "Walk" indication is steadily illuminated, pedestrians facing such signal may proceed across the roadway in the direction of the signal indication and shall be given the right of-way by the drivers of all vehicles.

(b) "Don't Walk" (steady): While the "Don't Walk" indication is steadily illuminated, no pedestrian shall enter the roadway in the direction of the signal indication.

(c) "Don't Walk" (flashing): Whenever the "Don't Walk" indication is flashing, no pedestrian shall start to cross the roadway in the direction of such signal indication, but any pedestrian who has partly completed crossing during the "Walk" indication shall proceed to a sidewalk or to a safety island, and all drivers of vehicles shall yield to any such pedestrian.

(d) Whenever a signal system provides for the stopping of all vehicular traffic and the exclusive movement of pedestrians and "Walk" and "Don't Walk" signal indications control such pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection while the "Walk" indication is exhibited, if signals and other official devices direct pedestrian movement in such manner consistent with section 803 (4).

(6) Any person who violates any provision of this section commits a class A traffic infraction."

The remaining portions of sec. 54-36 remain unchanged.

<u>Section 3.</u> Section 54-41, MTC Part 14 "Other offenses" amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, is hereby amended to read as follows:

"Sec. 54-41. MTC Part 14 "Other offenses" amended.

The Model Traffic Code is hereby amended by amending section 1401 of Part 14, amending section 1402 of Part 14, and by amending section 1412 of Part 14, to read as follows:

1401. Reckless driving.

(1) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, electric scooter, or low-power scooter in such a manner as to indicate either a wanton or a willful disregard for the safety of persons or property is guilty of reckless driving.

1402. Careless driving.

(1) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, electric scooter, or low-power scooter in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, is guilty of careless driving.

. . . .

1412. Operation of bicycles and other human-powered vehicles.

(1) Every person riding a bicycle, electrical assisted bicycle, or electric scooter, shall have all of the rights and duties applicable to the drive of any other vehicle under this Code, except as to special regulations in this Code and except as to those provisions which by their nature can have no application. Said riders shall comply with the rules set forth in this section and section 221.

(2) It is the intent of the general assembly that nothing contained in House Bill No. 1246, enacted at the second regular session of the fifty-sixth general assembly, shall in any way be construed to modify or increase the duty of the department of transportation or any political subdivision to sign or maintain highways or sidewalks or to affect or increase the liability of the state of Colorado or any political subdivision under the "Colorado Governmental Immunity Act," Article 10 of title 24, C.R.S.

(3) No bicycle, electrical assisted bicycle, or electric scooter shall be used to carry more persons at one time than the number for which it is designed or equipped.

(4) No person riding upon any bicycle, electrical assisted bicycle, or electric scooter shall attach the same or himself or herself to any motor vehicle upon a roadway.

(5)

(a) Any person operating a bicycle, an electrical assisted bicycle, or an electric scooter upon a roadway at less than the normal speed of traffic shall ride in the right-hand lane, subject to the following conditions:

(I) If the right-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a rider shall ride far enough to the right as judged safe by the rider to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.

(II) A rider may use a lane other than the right-hand lane when:

(A) Preparing for a left turn at an intersection or into a private roadway or driveway;

(B) Overtaking a slower vehicle; or

(C) Taking reasonably necessary precautions to avoid hazards or road conditions.

(III) Upon approaching an intersection where right turns are permitted and there is a dedicated right-turn lane, a rider may ride on the left-hand portion of the dedicated right-turn lane even if the rider does not intend to turn right.

(b) A rider shall not be expected or required to:

(I) Ride over or through hazards at the edge of the roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or

(II) Ride without a reasonable safety margin on the right-hand side of the roadway.

(c) A person operating a bicycle, an electrical assisted bicycle, or electric scooter upon a one-way roadway with two or more marked traffic lanes may ride as near to the left-hand curb or edge of such roadway as judged safe by the rider, subject to the following conditions:

(I) If the left-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a rider shall ride far enough to the left as judged safe by the rider to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.

(II) A rider shall not be expected or required to:

(A) Ride over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or

(B) Ride without a reasonable safety margin on the left-hand side of the roadway.

(6)

(a) Persons riding bicycles, electrical assisted bicycles, or electric scooters upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles and electric scooters.

(b) Persons riding bicycles, electrical assisted bicycles, or electric scooters two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(7) A person operating a bicycle, electrical assisted bicycle, or electric scooter shall keep at least one hand on the handlebars at all times.

(8)

(a) A person riding a bicycle, electrical assisted bicycle, or electric scooter intending to turn left shall follow a course described in sections 901(1), 903, and 1007 or may make a left turn in the manner prescribed in paragraph (b) of this subsection (8).

(b) A person riding a bicycle, electrical assisted bicycle, or electric scooter intending to turn left shall approach the turn as closely as practicable to the right-hand curb or edge of the roadway. After proceeding across the intersecting roadway to the far corner of the curb or intersection of the roadway edges, the rider shall stop, as much as practicable, out of the way of traffic. After stopping, the rider shall yield to any traffic proceeding in either direction along the roadway that the rider_had been using. After yielding and complying with any official traffic control device or police officer regulating traffic on the highway along which the rider intends to proceed, the rider may proceed in the new direction.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (8), the transportation commission and local authorities in their respective jurisdictions may cause official traffic control devices to be placed on roadways and thereby require and direct that a specific course be traveled.

(9)

(a) Except as otherwise provided in this subsection (9), every person riding a bicycle, electrical assisted bicycle, or electric scooter shall signal the intention to turn or stop in accordance with section 903; except that a person riding a bicycle, electrical assisted bicycle, or electric scooter may signal a right turn with the right arm extended horizontally.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the bicycle, electrical assisted bicycle, or electric scooter before turning and shall be given while the bicycle, electrical assisted bicycle, or electric scooter is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle, electrical assisted bicycle, or electric scooter.

(10)

(a) A person riding a bicycle, electrical assisted bicycle, or electric scooter upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian. A person riding a bicycle, electrical assisted bicycle, or electric scooter in a crosswalk shall do so in a manner that is safe for pedestrians.

(b) A person shall not ride a bicycle, electrical assisted bicycle, or electric scooter upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk where such use of bicycles, electrical assisted bicycles, or electric scooters is prohibited by official traffic control devices. A person riding a bicycle, electrical assisted bicycle, or electric scooter shall dismount before entering any crosswalk where required by official traffic control devices.

(c) person riding or walking a bicycle, electrical assisted bicycle, or electric scooter upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances, including, but not limited to, the rights and duties granted and required by section 802.

(d) (Deleted by amendment, L. 2005, p. 1353, § 1, effective July 1, 2005.)

(11)

(a) A person may park a bicycle, electrical assisted bicycle, or electric scooter on a sidewalk unless prohibited or restricted by an official traffic control device.

(b) A bicycle, electrical assisted bicycle, or electric scooter parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.

(c) A bicycle, electrical assisted bicycle, or electric scooter may be parked on the road at any angle to the curb or edge of the road at any location where parking is allowed.

(d) A bicycle, electrical assisted bicycle, or electric scooter may be parked on the road abreast of another such bicycle(s) or electric scooter(s) near the side of the road or any location where parking is allowed in such a manner as does not impede the normal and reasonable movement of traffic.

(e) In all other respects, bicycles, electrical assisted bicycles, or electric scooters parked anywhere on a highway shall conform to the provisions of part 12 of this Code regulating the parking of vehicles.

(12)

(a) Any person riding a bicycle, electrical assisted bicycle, or electric scooter who violates any provision of this Code other than this section which is applicable to such a vehicle and for which a penalty is specified shall be subject to the same specified penalty as any other vehicle.

(13) Upon request, the law enforcement agency having jurisdiction shall complete a report concerning an injury or death that involves a bicycle, electrical assisted bicycle, or electric scooter on the roadways of the state, even if such accident does not involve a motor vehicle.

(14)

(a) A person may ride a class 1 or a class 2 electrical assisted bicycle or an electric scooter on a bike or pedestrian path where bicycles are authorized to travel.

(b) A person shall not ride a class 3 electrical assisted bicycle on a bike or pedestrian path unless:

(I) The path is within a street or highway; or

(II) The local authority permits the operation of a class 3 electrical assisted bicycle on a path under its jurisdiction.

(15)

(a) A person under sixteen years of age shall not ride a class 3 electrical assisted bicycle upon any street, highway, or bike or pedestrian path; except that a person under sixteen years of age may ride as a passenger on a class 3 electrical assisted bicycle that is designed to accommodate passengers.

(b) A person shall not operate or ride as a passenger on a class 3 electrical assisted bicycle unless:

(I) Each person under eighteen years of age is wearing a protective helmet of a type and design manufactured for use by operators of bicycles;

(II) The protective helmet conforms to the design and specifications set forth by the United States consumer product safety commission or the American Society for Testing and Materials; and

(III) The protective helmet is secured properly on the person's head with a chin strap while the class 3 electrical assisted bicycle is in motion.

(c) A violation of subsection (15)(b) of this section does not constitute negligence or negligence per se in the context of any civil personal injury claim or lawsuit seeking damages."

. . . .

The remaining portions of sec. 54-41 shall remain unchanged.

Section 4. Section 54-43, MTC “Appendices: Definitions” amended, of Article II, Model Traffic Code, of Chapter 54, Motor Vehicles and Traffic, is hereby repealed and reenacted to read as follows:

“**Sec. 54-43. MTC “Appendices: Definitions” amended.**

The Model Traffic Code is hereby amended by adding certain definitions to the “Appendices: Definitions” section to read as follows:

(7.5) "Barricade" means a portable or fixed barrier having object markings used to close all or a portion of the right-of-way to vehicular traffic.

(13.5) "City" or "municipality" means the City of Arvada.

(28.5) "Electrical assisted bicycle" means a vehicle having two or three wheels, fully operable pedals, and an electric motor not exceeding seven hundred fifty watts of power. Electrical assisted bicycles are further required to conform to one of three classes as follows:

(a) “Class 1 electrical assisted bicycle” means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.

(b) “Class 2 electrical assisted bicycle” means an electrical assisted bicycle equipped with a motor that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.

(c) “Class 3 electrical assisted bicycle” means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour.

(28.7) "Electric personal assistive mobility device" or "EPAMD" means a self-balancing, nontandem two-wheeled device, designed to transport only one person, that is powered solely by an electric propulsion system producing an average power output of no more than seven hundred fifty watts.

(28.8) “Electric scooter” means a device weighing less than one hundred pounds with handlebars that is powered by an electric motor and that has a maximum speed of twenty miles per hour on a paved level surface when powered solely by the electric motor. An electric scooter does not include an electrical assisted bicycle, EPAMD, motorcycle, or low-power scooter.

(42.5) "Holiday" means Sundays, New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day, or any such additional statutory holidays as the city may adopt by ordinance.

(47.5) "Lane-use control signal" means a traffic-control signal which is erected to control the direction of vehicular traffic movement in an individual lane.

(69.5) "Passenger loading zone" means a designated space reserved for the exclusive use of vehicles during the loading or unloading of passengers or their property.

(74.5) "Prima facie speed limit" means a speed limit above which the driver is presumed to be driving unlawfully but, if charged with exceeding it, a driver may show cause to prove that his speed was safe for conditions and therefore, that he was not guilty of a speed violation.

(111) “Toy vehicle” means any vehicle, whether or not home-built by the user, that has wheels with an outside diameter of not more than fourteen inches and is not designed, approved, or intended for use on public roadways or highways. "Toy vehicle" includes, but is not limited to, gas-powered or electric-powered vehicles commonly known as mini bikes, "pocket" bikes, kamikaze boards, go-peds, and stand-up scooters except for electric scooters as defined in subsection 28.8 of this section.

(112.5) "Traffic-control signal" means any device, whether manually, electrically, electronically, or mechanically operated, by which traffic is alternately directed to sop and permitted to proceed.”

<u>Section 5.</u> Section 54-91, Definitions, of Article III, Motor Vehicles on Public Property, of Chapter 54, Motor Vehicles and Traffic, is hereby repealed and reenacted to read as follows:

“Sec. 54-91. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City-owned land means any park, ballpark, recreation area, lake area, city-owned street, easement, sidewalk, or area dedicated or commonly used for vehicular or pedestrian traffic, city storage facility, city garage area, pet park, and any and all other lands and premises owned by the city or other legally recognized public entity.

Electric devices means electrical assisted bicycles, EPAMD, and electric scooters as defined in Section 54-43.

Unlicensed motor vehicle means a motor vehicle that is not required to be registered or to display a license plate and includes motor bicycles, dune buggies, trail bikes, minibikes, go-carts, racing minibikes, racing scooters, snowmobiles, and similar vehicles. It does not include electric devices or wheelchairs."

Section 6. Section 54-93, Use or operation prohibited, of Article III, Motor Vehicles on Public Property, of Chapter 54, Motor Vehicles and Traffic, is hereby repealed and reenacted to read as follows:

"Sec. 54-93. Use or operation prohibited.

It shall be unlawful for any person to use or operate an unlicensed motor vehicle upon city-owned land. Nothing in this article prohibits the operation of golf cars on golf courses located within the city."

Section 7. Section 54-96, Signs allowing use, of Article III, Motor Vehicles on Public Property, of Chapter 54, Motor Vehicles and Traffic, is hereby repealed, retitled, and reenacted to read as follows:

"Sec. 54-96. Permission to operate a motor vehicle.

The city may grant permission to any person to use or operate a motor vehicle on city-owned land where such use or operation is prohibited under this article. Permission may be granted through a sign or signs posted by the city at the direction of the city manager or the city parks director. Any sign granting permission must specify the type of motor vehicle that is permitted and area for which permission is granted, and may specify the hours of permissible use."

Section 8. Article XI, Micromobility Program, of Chapter 54, Motor Vehicles and Traffic, of the Arvada City Code is hereby enacted to read as follows:

ARTICLE XI. MICROMOBILITY PROGRAM

Sec. 54-301. Definitions.

For purposes of this article, the following words and phrases have the following meaning, unless otherwise indicated:

City means the City of Arvada.

Devices means bicycles, scooters, electrical assisted bicycles, electric scooters, and other small, wheeled vehicles designed specifically for shared-use and deployed by micromobility operators.

Director means the director of public works or his or her designee.

Micromobility means a network or system of devices, placed in the public right-of-way and for rent in short time increments, that provides increased mobility options over short distances in urban areas.

Mobility as a Service permit program or *program* means a program allowing for the implementation and operation of micromobility within the city for a prescribed period of time.

Operator: a person or entity who offers devices to be used for micromobility.

Permit means a document issued by the director to an operator that allows the operator to offer micomobility devices and services in the city.

Sec. 54-302. Micromobility operator permit and pilot program.

To assist with the implementation and operation of micromobility within the city, the director shall create the “mobility as a service permit program.” The director shall establish a permit application process, and develop program criteria and requirements for micromobility operation within the city’s rights-of-way.

Sec. 54-303. Rules and regulations.

(a) The director may promulgate rules and regulations consistent with this chapter to govern the program, including, but not limited to, permitting obligations, the operation of devices, and rules necessary to enhance public safety.

(b) All persons must comply with the rules and regulations adopted pursuant to this chapter.

Sec. 54-304. Permit required.

No person or entity shall conduct or carry on the business of offering devices without first obtaining a permit from the director under this article.

Sec. 54-305. Permit application.

(a) An operator desiring a permit must submit a permit application to the director under the rules and regulations adopted pursuant to sec. 54-303 of this article, and must pay the fee(s) prescribed in sec. 54-306 of this article.

(b) In accordance with the program criteria established under this article, the director is authorized to review, approve, and issue a micromobility permit to an operator who applies for a permit.

Sec. 54-306. Permit fees.

(a) An operator must pay the initial, maintenance, and renewal fees associated with a program permit as prescribed in the rules and regulations adopted pursuant to sec. 54-303 of this article.

(b) Fees prescribed pursuant to this article are non-refundable.

Sec. 54-307. Denial, suspension, or revocation of permits.

(a) The director may deny an application for a permit under this chapter if the applicant fails to demonstrate that it meets all of the requirements for a permit as provided in the rules and regulations adopted pursuant to sec. 54-303.

(b) The director may suspend or revoke a permit issued under this chapter if the operator fails to comply with the requirements of this chapter. A request for appeal must be provided in writing to the director no less than seven days after receiving the termination letter via certified mail. Any permit holder not satisfied with the director's decision may request a final appeal hearing with a hearing officer pursuant to Chapter 2, Article V, Division 3 of this code. Such hearing shall be set before the end of the 30 day decommissioning period set by Arvada in the original notice provided via certified mail. The decision made by the hearing officer is final.

(c) Any operator whose permit is suspended or revoked must reclaim and remove their entire fleet of devices within 30 days of notice of suspension or revocation.

Sec. 54-308. Status of program.

The director will file with the city manager no later than January 31, 2022, a report assessing the program for City Council's six month review. City Council may terminate the pilot program on February 16, 2022 or allow the pilot program to continue. The program described herein will operate as a pilot program through and including September 13, 2022 with the possibility of extending to December 31, 2022. Unless terminated by city council action prior to that date, the micromobility program will operate as a city program on the same terms set forth in this article beginning on January 1, 2023.

Secs. 54-309-320. Reserved.

Section 9. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts thereof irrespective of the fact that any part or parts to be declared unconstitutional or invalid.

Section 10. Effective date. This ordinance shall take effect September 13, 2021.

INTRODUCED, READ, AND ORDERED PUBLISHED this 2nd day of August, 2021.

PASSED, ADOPTED AND APPROVED AND ORDERED PUBLISHED IN FULL this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: ______________________________________

Publication Dates: August 5, 2021
August 19, 2021

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
~~Strikethrough~~ indicates deleted material

Sec. 54-33. MTC Part 2 "Equipment" amended.

The Model Traffic Code is hereby amended by amending section 221 of Part 2, to read as follows:

221. Bicycle, electric scooter, and personal mobility device equipment.

(1) No other provision of this part 2 of this Code shall apply to a bicycle, electrical assisted bicycle, electric scooter, or EPAMD or to equipment for use on a bicycle, electrical assisted bicycle, electric scooter, or EPAMD except those provisions in this Code made specifically applicable to such a vehicle.

(2) Every bicycle, electrical assisted bicycle, electric scooter, or EPAMD in use at the times described in section 204 shall be equipped with a lamp on the front emitting a white light visible from a distance of at least five hundred feet to the front.

(3) Every bicycle, electrical assisted bicycle, electric scooter, or EPAMD shall be equipped with a red reflector of a type approved by the department, which shall be visible for six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(4) Every bicycle, electrical assisted bicycle, electric scooter, or EPAMD when in use at the times described in section 204 shall be equipped with reflective material of sufficient size and reflectivity to be visible from both sides for six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle or, in lieu of such reflective material, with a lighted lamp visible from both sides from a distance of at least five hundred feet.

(5) A bicycle, electrical assisted bicycle, electric scooter, or EPAMD or its rider may be equipped with lights or reflectors in addition to those required by subsections (2) to (4) of this section.

(6) A bicycle, electrical assisted bicycle, or electric scooter shall not be equipped with, nor shall any person use upon a bicycle, electrical assisted bicycle, or electric scooter, any siren or whistle.

(7) Every bicycle, electrical assisted bicycle, or electric scooter shall be equipped with a brake or brakes that will enable its rider to stop the bicycle, electrical assisted bicycle, or electric scooter within twenty-five feet from a speed of ten miles per hour on dry, level, clean pavement.

(8) A person engaged in the business of selling bicycles, electrical assisted bicycles, or electric scooters at retail shall not sell any bicycle, electrical assisted bicycle, or electric scooter, unless the bicycle, electrical assisted bicycle, or electric scooter has an identifying number permanently stamped or cast on its frame.

(9)

(a) Every manufacturer or distributor of new electrical assisted bicycles intended for sale or distribution in this state shall permanently affix to each electrical assisted bicycle, in a prominent location, a label that contains the classification number, top assisted speed, and motor wattage of the electrical assisted bicycle. The label must be printed in the Arial font in at least nine-point type.

(b) A person shall not knowingly modify an electrical assisted bicycle so as to change the speed capability or motor engagement of the electrical assisted bicycle without also appropriately replacing, or causing to be replaced, the label indicating the classification required by subsection (9)(a) of this section.

(10)

(a) An electrical assisted bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States consumer product safety commission and codified at 16 CFR 1512 or its successor regulation.

(b) A class 2 electrical assisted bicycle must operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied. Class 1 and class 3 electrical assisted bicycles must be equipped with a mechanism or circuit that cannot be bypassed and that causes the electric motor to disengage or cease to function when the rider stops pedaling.

(c) A class 3 electrical assisted bicycle must be equipped with a speedometer that displays, in miles per hour, the speed the electrical assisted bicycle is traveling."

Sec. 54-36. MTC Part 8 "Pedestrians" amended.

The Model Traffic Code is hereby amended by amending section 802 of Part 8 to read as follows:

802. Pedestrians' right-of-way in crosswalks.

(1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(2) Subsection (1) of this section shall not apply under the conditions stated in section 803.

(3) No pedestrian shall suddenly leave a curb or other place of safety and ride a bicycle, ride an electrical assisted bicycle, ride an electric scooter, walk, or run into the path of a moving vehicle that is so close as to constitute an immediate hazard.

(4) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(5) Whenever special pedestrian-control signals exhibiting "Walk" or "Don't Walk" word or symbol indications are in place, as declared in the traffic control manual adopted by the department of transportation, such signals shall indicate and require as follows:

(a) "Walk" (steady): While the "Walk" indication is steadily illuminated, pedestrians facing such signal may proceed across the roadway in the direction of the signal indication and shall be given the right of-way by the drivers of all vehicles.

(b) "Don't Walk" (steady): While the "Don't Walk" indication is steadily illuminated, no pedestrian shall enter the roadway in the direction of the signal indication.

(c) "Don't Walk" (flashing): Whenever the "Don't Walk" indication is flashing, no pedestrian shall start to cross the roadway in the direction of such signal indication, but any pedestrian who has partly completed crossing during the "Walk" indication shall proceed to a sidewalk or to a safety island, and all drivers of vehicles shall yield to any such pedestrian.

(d) Whenever a signal system provides for the stopping of all vehicular traffic and the exclusive movement of pedestrians and "Walk" and "Don't Walk" signal indications control such pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection while the "Walk" indication is exhibited, if signals and other official devices direct pedestrian movement in such manner consistent with section 803 (4).

(6) Any person who violates any provision of this section commits a class A traffic infraction."

Sec. 54-41. MTC Part 14 "Other offenses" amended.

The Model Traffic Code is hereby amended by amending section 1401, amending section 1402, and, amending section 1412, to Part 14, to read as follows:

1401. Reckless driving.

(1) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, electric scooter, or low-power scooter in such a manner as to indicate either a wanton or a willful disregard for the safety of persons or property is guilty of reckless driving.
(2) Any person who violates any provision of this section commits a class 2 misdemeanor traffic offense.

1402. Careless driving.

(1) A person who drives a motor vehicle, bicycle, electrical assisted bicycle, electric scooter, or low-power scooter in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, is guilty of careless driving.
(2) Any person who violates any provision of this section commits a class 2 misdemeanor traffic offense.

1412. Operation of bicycles and other human-powered vehicles.

(1) Every person riding a bicycle, electrical assisted bicycle, or electric scooter, shall have all of the rights and duties applicable to the drive of any other vehicle under this Code, except as to special regulations in this Code and except as to those provisions which by their nature can have no application. Said riders shall comply with the rules set forth in this section and section 221.
(2) It is the intent of the general assembly that nothing contained in House Bill No. 1246, enacted at the second regular session of the fifty-sixth general assembly, shall in any way be construed to modify or increase the duty of the department of transportation or any political subdivision to sign or maintain highways or sidewalks or to affect or increase the liability of the state of Colorado or any political subdivision under the "Colorado Governmental Immunity Act", Article 10 of title 24, C.R.S.
(3) No bicycle, electrical assisted bicycle, or electric scooter shall be used to carry more persons at one time than the number for which it is designed or equipped.

(4) No person riding upon any bicycle, electrical assisted bicycle, or electric scooter shall attach the same or himself or herself to any motor vehicle upon a roadway.

(5) (a) Any person operating a bicycle, an electrical assisted bicycle, or an electric scooter upon a roadway at less than the normal speed of traffic shall ride in the right-hand lane, subject to the following conditions:

(I) If the right-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a rider shall ride far enough to the right as judged safe by the rider to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.

(II) A rider may use a lane other than the right-hand lane when:

(A) Preparing for a left turn at an intersection or into a private roadway or driveway;

(B) Overtaking a slower vehicle; or

(C) Taking reasonably necessary precautions to avoid hazards or road conditions.

(III) Upon approaching an intersection where right turns are permitted and there is a dedicated right-turn lane, a rider may ride on the left-hand portion of the dedicated right-turn lane even if the rider does not intend to turn right.

(b) A rider shall not be expected or required to:

(I) Ride over or through hazards at the edge of the roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or

(II) Ride without a reasonable safety margin on the right-hand side of the roadway.

(c) A person operating a bicycle, an electrical assisted bicycle, or electric scooter upon a one-way roadway with two or more marked traffic lanes may ride as near to the left-hand curb or edge of such roadway as judged safe by the rider, subject to the following conditions:

(I) If the left-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a rider shall ride far enough to the left as judged safe by the rider to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.

(II) A rider shall not be expected or required to:

(A) Ride over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or

(B) Ride without a reasonable safety margin on the left-hand side of the roadway.

(6)(a) Persons riding bicycles, electrical assisted bicycles, or electric scooters upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles and electric scooters.

(b) Persons riding bicycles, electrical assisted bicycles, or electric scooters two abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(7) A person operating a bicycle, electrical assisted bicycle, or electric scooter shall keep at least one hand on the handlebars at all times.

(8) (a) A person riding a bicycle, electrical assisted bicycle, or electric scooter intending to turn left shall follow a course described in sections 901(1), 903, and 1007 or may make a left turn in the manner prescribed in paragraph (b) of this subsection (8).

(b) A person riding a bicycle, electrical assisted bicycle, or electric scooter intending to turn left shall approach the turn as closely as practicable to the right-hand curb or edge of the roadway. After proceeding across the intersecting roadway to the far corner of the curb or intersection of the roadway edges, the rider shall stop, as much as practicable, out of the way of traffic. After stopping, the rider shall yield to any traffic proceeding in either direction along the roadway that the rider had been using. After yielding and complying with any official traffic control device or police officer regulating traffic on the highway along which the rider intends to proceed, the rider may proceed in the new direction.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection (8), the transportation commission and local authorities in their respective jurisdictions may cause official traffic control devices to be placed on roadways and thereby require and direct that a specific course be traveled.

(9)(a) Except as otherwise provided in this subsection (9), every person riding a bicycle, electrical assisted bicycle, or electric scooter shall signal the intention to turn or stop in accordance with section 903; except that a person riding a bicycle, electrical assisted bicycle, or electric scooter may signal a right turn with the right arm extended horizontally.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the bicycle, electrical assisted bicycle, or electric scooter before turning and shall be given while the bicycle, electrical assisted bicycle, or electric scooter is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle, electrical assisted bicycle, or electric scooter.

(10)(a) A person riding a bicycle, electrical assisted bicycle, or electric scooter upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian. A person riding a bicycle, electrical assisted bicycle, or electric scooter in a crosswalk shall do so in a manner that is safe for pedestrians.

(b) A person shall not ride a bicycle, electrical assisted bicycle, or electric scooter upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk where such use of bicycles, electrical assisted bicycles, or electric scooters is prohibited by official traffic control devices. A person riding a bicycle, electrical assisted bicycle, or electric scooter shall dismount before entering any crosswalk where required by official traffic control devices.

(c) A person riding or walking a bicycle, electrical assisted bicycle, or electric scooter upon and along a sidewalk or pathway or across a roadway upon and along a crosswalk shall have all the rights and duties applicable to a pedestrian under the same circumstances, including, but not limited to, the rights and duties granted and required by section 802.

(d) (Deleted by amendment, L. 2005, p. 1353, § 1, effective July 1, 2005.)

(11)(a) A person may park a bicycle, electrical assisted bicycle, or electric scooter on a sidewalk unless prohibited or restricted by an official traffic control device.

(b) A bicycle, electrical assisted bicycle, or electric scooter parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.

(c) A bicycle, electrical assisted bicycle, or electric scooter may be parked on the road at any angle to the curb or edge of the road at any location where parking is allowed.

(d) A bicycle, electrical assisted bicycle, or electric scooter may be parked on the road abreast of another such bicycle(s) or electric scooter(s) near the side of the road or any location where parking is allowed in such a manner as does not impede the normal and reasonable movement of traffic.

(e) In all other respects, bicycles, electrical assisted bicycles, or electric scooters parked anywhere on a highway shall conform to the provisions of part 12 of this Code regulating the parking of vehicles.

(12)(a) Any person who violates any provision of this section commits a class 2 misdemeanor traffic offense.

(b) Any person riding a bicycle, electrical assisted bicycle, or electric scooter who violates any provision of this Code other than this section which is applicable to such a vehicle and for which a penalty is specified shall be subject to the same specified penalty as any other vehicle.

(13) Upon request, the law enforcement agency having jurisdiction shall complete a report concerning an injury or death that involves a bicycle, electrical assisted bicycle, or electric scooter on the roadways of the state, even if such accident does not involve a motor vehicle.

(14)(a) A person may ride a class 1 or a class 2 electrical assisted bicycle or an electric scooter on a bike or pedestrian path where bicycles are authorized to travel.

(b) A person shall not ride a class 3 electrical assisted bicycle on a bike or pedestrian path unless:

(I) The path is within a street or highway; or

(II) The local authority permits the operation of a class 3 electrical assisted bicycle on a path under its jurisdiction.

(15)(a) A person under sixteen years of age shall not ride a class 3 electrical assisted bicycle upon any street, highway, or bike or pedestrian path; except that a person under sixteen years of age may ride as a passenger on a class 3 electrical assisted bicycle that is designed to accommodate passengers.

(b) A person shall not operate or ride as a passenger on a class 3 electrical assisted bicycle unless:

(I) Each person under eighteen years of age is wearing a protective helmet of a type and design manufactured for use by operators of bicycles;

(II) The protective helmet conforms to the design and specifications set forth by the United States consumer product safety commission or the American Society for Testing and Materials; and

(III) The protective helmet is secured properly on the person's head with a chin strap while the class 3 electrical assisted bicycle is in motion.

(c) A violation of subsection (15)(b) of this section does not constitute negligence or negligence per se in the context of any civil personal injury claim or lawsuit seeking damages.

Sec. 54-43. – MTC "Appendices: Definitions" amended.

(7.5)"Barricade" means a portable or fixed barrier having object markings used to close all or a portion of the right-of-way to vehicular traffic.

(13.5)"City" or "municipality" means the City of Arvada.

(28.5) "Electrical assisted bicycle" means a vehicle having two or three wheels, fully operable pedals, and an electric motor not exceeding seven hundred fifty watts of power. Electrical assisted bicycles are further required to conform to one of three classes as follows:

(a) "Class 1 electrical assisted bicycle" means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.

(b) "Class 2 electrical assisted bicycle" means an electrical assisted bicycle equipped with a motor that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour.

(c) “Class 3 electrical assisted bicycle” means an electrical assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour.

(28.7) "Electric personal assistive mobility device" or "EPAMD" means a self-balancing, nontandem two-wheeled device, designed to transport only one person, that is powered solely by an electric propulsion system producing an average power output of no more than seven hundred fifty watts.

(28.5) “Electric scooter” means a device weighing less than one hundred pounds; with handlebars and an electric motor; that is powered by an electric motor; and that has a maximum speed of twenty miles per hour on a paved level surface when powered solely by the electric motor. An electric scooter does not include an electrical assisted bicycle, electric personal assistive mobility device, motorcycle, or low-power scooter.

(42.5)"Holiday" means Sundays, New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day, or any such additional statutory holidays as the city may adopt by ordinance.

(47.5)"Lane-use control signal" means a traffic-control signal which is erected to control the direction of vehicular traffic movement in an individual lane.

(69.5)"Passenger loading zone" means a designated space reserved for the exclusive use of vehicles during the loading or unloading of passengers or their property.

(74.5)"Prima facie speed limit" means a speed limit above which the driver is presumed to be driving unlawfully but, if charged with exceeding it, a driver may show cause to prove that his speed was safe for conditions and therefore, that he was not guilty of a speed violation.

(111) “Toy vehicle” means any vehicle, whether or not home-built by the user, that has wheels with an outside diameter of not more than fourteen inches and is not designed, approved, or intended for use on public roadways or highways. "Toy vehicle" includes, but is not limited to, gas-powered or electric-powered vehicles commonly known as mini bikes, "pocket" bikes, kamikaze boards, go-peds, and stand-up scooters except for electric scooters as defined in subsection 28.8 of this section.

(112.5)"Traffic-control signal" means any device, whether manually, electrically, electronically, or mechanically operated, by which traffic is alternately directed to sop and permitted to proceed.

“Sec. 54-91. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City-owned lands ~~shall~~ means any parks~~s~~, ballparks~~s~~, recreation areas~~s~~, lake areas~~s~~, city-owned streets~~s~~, easements~~s~~ and sidewalks~~s~~ or areas~~s~~ dedicated or commonly used for vehicular or pedestrian traffic, city storage facility~~ies~~, city garage area, pet parks~~s~~ and any and all other lands and premises owned by the city or other legally recognized public entity.

Electric devices means electrical assisted bicycles, EPAMD, and electric scooters as defined in Section 54-43.

Unlicensed motor vehicle~~, *licensed motor vehicle* shall refer to any of the following but need not necessarily be limited to those vehicles as herein set forth: motorcycles, motor scooters,~~ means a motor vehicle that is not required to be registered or to display a license plate and includes motor bicycles, dune buggies, trail bikes, minibikes, go-carts, racing minibikes, racing scooters, snowmobiles, and similar vehicles. It does not include electric devices or wheelchairs." ~~any other vehicle designed for the transportation of the driver, passengers or products and propelled by an internal combustion engine or other type of engine, either licensed or unlicensed~~.

"Section 54-93, Use or operation prohibited.

~~Except for use upon dedicated and improved roads and streets~~ it shall be unlawful for any person to use or operate unlicensed motor vehicles ~~or licensed motor vehicles~~ upon city-owned lands ~~which are described in this article~~. Nothing in this article prohibits the operation of golf cars on golf courses located within the city."

"Sec. 54-96. Permission to operate a motor vehicle.

The city may grant permission to any person to use or operate a motor vehicle on city-owned land where such use or operation is prohibited under this article. Permission may be granted through a sign or signs posted by the city at the direction of the city manager or the city parks director. Any sign granting permission must specify the type of motor vehicle that is permitted and area for which permission is granted, and may specify the hours of permissible use."

ARTICLE XI. MICROMOBIILTY PROGRAM

Sec. 54-301. Definitions.

For purposes of this article, the following words and phrases have the following meaning, unless otherwise indicated:

City means the City of Arvada.

Devices means bicycles, scooters, electrical assisted bicycles, electric scooters, and other small, wheeled vehicles designed specifically for shared-use and deployed by micromobility operators.

Director means the Director of Public Works or his or her designee.

Micromobility means a network or system of devices, placed in the public right-of-way and for rent in short time increments, that provides increased mobility options over short distances in urban areas.

Mobility as a Service Permit Program or *Program* means a pilot program allowing for the implementation and operation of micromobility within the city for a prescribed period of time.

Operator: a person or entity who offers devices to be used for micromobility.

Permit means a document issued by the Director to an operator that allows the operator to offer micomobility devices and services in the city.

Sec. 54-302. – Micromobility operator permit and pilot program.

To assist with the implementation and operation of micromobility within the City of Arvada, the director shall create the pilot "mobility as a service permit program." The director shall establish a permit application process, and develop program criteria and requirements for micromobility operation within the city's rights-of-way.

Sec. 54-303. – Rules and regulations.

(a) The director may promulgate rules and regulations consistent with this chapter to govern the program, including, but not limited to, permitting obligations, the operation of devices, and rules necessary to enhance public safety.

(b) All persons must comply with the rules and regulations adopted pursuant to this chapter.

Sec. 54-304. – Permit required.

No person or entity shall conduct or carry on the business of offering devices without first obtaining a permit from the director under this article.

Sec. 54-305. – Permit application.

(a) An operator desiring a permit must submit a permit application to the director under the rules and regulations adopted pursuant to sec. 54-303 of this article, and must pay the fee(s) prescribed in sec. 54-306 of this article.

(b) In accordance with the program criteria established under this article, the director is authorized to review, approve, and issue a micromobility permit to an operator who applies for a permit.

Sec. 54-306. – Permit fees.

(c) An operator must pay the initial, maintenance, and renewal fees associated with a program permit as prescribed in the rules and regulations adopted pursuant to sec. 54-303 of this article.

(d) Fees prescribed pursuant to this article are non-refundable.

Sec. 54-307. – Denial, suspension, or revocation of permits.

(d) The director may deny an application for a permit under this chapter if the applicant fails to demonstrate that it meets all of the requirements for a permit as provided in the rules and regulations adopted pursuant to sec. 54-303.

(e) The director may suspend or revoke a permit issued under this chapter if the operator fails to comply with the requirements of this chapter. A request for appeal must be provided in writing to the director no less than seven days after receiving the termination letter via certified mail. Any permit holder not satisfied with the director's decision may request a final appeal hearing with a hearing officer pursuant to Chapter 2, Article V, Division 3 of this code. Such hearing shall be set before the end of the 30 day decommissioning period set by Arvada in the original notice provided via certified mail. The decision made by the hearing officer is final.

(f) Any operator whose permit is suspended or revoked must reclaim and remove their entire fleet of devices within 30 days of notice of suspension or revocation.

Sec. 54-308. – Expiration.

The director will file with the city manager no later than January 31, 2021, a report assessing the program for City Council's six month review. City Council may terminate the pilot program on February 7, 2022 or allow the pilot program to continue. The program described herein will operate as a pilot program through and including September 19, 2022 with the possibility of extending to December 31, 2022. Unless terminated by city council action prior to that date, the micromobility program will operate as a city program on the same terms set forth in this article beginning on January 1, 2023.

Secs. 54-309-320. – Reserved.

REPORT TO CITY COUNCIL PUBLIC HEARING

AGENDA ITEM 10.B.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: CB21-026 An Ordinance Enacting and Amending Certain Provisions of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code to Prohibit Persons Under the Age of 21 From Entering Smoking Businesses, to Prohibit the Sale or Distribution of Tobacco Products to Persons Under the Age of 21, and to Prohibit Self Service Displays of Tobacco Products (Ordinance No. 4773)

Report in Brief

In February 2020 the Arvada team presented information to the City Council regarding regulation and enforcement of tobacco and vaping by youth under the age of 21. This information was presented following the change in Federal law that increased the tobacco purchase age to 21 and consideration at that time of similar changes to State law.

Now, with revised Federal and State tobacco laws in place, the Arvada team is prepared to present amendments to the City's existing Smoking Restricted in Public Places Ordinance ("Smoking Ordinance"). In brief, the amendment revises the Smoking Ordinance to provide a minimum legal tobacco-purchase age of 21. It also provides for certain signage requirements, mandatory identification checks for tobacco sales, and clarifies other provisions related to the sale of tobacco products in Arvada. All changes align with current Federal and State laws.

The Arvada team recommends that the City Council approve CB21-026, An Ordinance Enacting and Amending Certain Provisions of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code to Prohibit Persons Under the Age of 21 From Entering Smoking Businesses, to Prohibit the Sale or Distribution of Tobacco Products to Persons Under the Age of 21, and to Prohibit Self Service Displays of Tobacco Products.

Financial Impact

No fiscal impact is expected from the enactment of this ordinance and its amendments. To the extent necessary, enforcement will be handled with existing APD resources.

Background

The City adopted the Smoking Ordinance in 2004 (Ordinance #3919). The Smoking Ordinance broadly prohibits smoking tobacco products in defined public places, prohibits the distribution of tobacco products to underage persons, and provides penalties for violations.

The City amended the Smoking Ordinance in 2006, 2008, and 2015 (Ordinances #4003, #4127, and #4501) to recodify language, and to address the emergence of "vaping" with additional definitions of electronic smoking devices and related revisions throughout.

In 2019 the City received requests from citizens, educators, Jefferson County Public Health, and other youth and health advocates expressing concerns regarding the impacts of tobacco use among middle and high school students. Educators and youth advocates also expressed concerns regarding the increased use of vaping products by youth and the associated adverse health impacts. In response to these concerns, the City Council asked the City team to review potential changes to the City's smoking ordinance that would restrict youth access to tobacco and vaping products.

In 2019 and 2020, respectively, the Federal and State governments raised the minimum legal tobacco-purchase age from 18 to 21. In 2020, Jefferson County Public Health approached Arvada (along with other jurisdictions) to advocate for conforming amendments to local tobacco laws and to propose implementation of administrative tobacco licensing programs.

A year later, with a better understanding of the impact of the Federal and State laws, the Arvada team is prepared to present an amendment to the City's existing tobacco codes.

The proposed Ordinance was presented to the City Council during a workshop on April 26. Council members expressed support for the Ordinance and directed the City team to proceed with the process necessary to present the amendments for the Council's consideration. This process began with notifications to the affected businesses that this Ordinance will be considered by the City Council, that the changes reflect existing State and Federal law, and that businesses will be provided a reasonable period of time to comply. On May 26, a letter was sent to all Arvada retailers that sell tobacco and vaping products in order to notify them of the amendments to the City's Smoking Ordinance. The letter summarized the proposed amendments and stated that the City Council will consider the Ordinance during a public hearing scheduled for August 16.

Discussion

Smoking Ordinance provisions will be amended as summarized below. An underline/strikeover version of the changes is included in the agenda packet for the City Council's review.

A.C.C. Section	Revision
38-303. Definitions.	Add definition of "*Self-service display*". Replace definition of "*Cigarette*" with "*Tobacco product or nicotine product*" as revised and relocated from 38-305.5(b).
38-304. Smoking prohibited.	Revise to age 21.
Sec. 38-305. Persons under age 21 prohibited on premises.	Revise title and language to reflect age 21.
Sec. 38-305.5. No distribution to persons under age 21; identification check and signage required; no sale by minors.	Revise title and references to age 21. Revise and relocate definition (b) to 38-303. Add identification check and signage requirements. Add age requirements for employees who sell tobacco products to align with CRS.
Sec. 38-306.5. Self-service displays prohibited.	New provision prohibiting self-service tobacco display/sales.

Enforcement of the proposed amended Ordinance would be assigned to the Police Department's Civilian Operations unit. The Liquor Licensing Control Administrator will be the team member responsible for enforcement. Assignment of the enforcement program to this position was determined because the responsibilities are similar to liquor enforcement.

The enforcement program will be primarily complaint driven similar to other civilian enforcement programs within the Police Department, including Animal Management and Code Enforcement. In addition to the investigation of complaints, the Liquor Licensing Control Administrator will conduct a minimum of one proactive inspection of all tobacco and vaping retailers annually. These inspections will include review for the required signage, compliance with age requirements for employees who sell tobacco products and prohibition of self-service displays. The locations of these retailers are available to the Liquor

Licensing Control Administrator through business licenses provided by the Finance Department and other records such as collection of sales and cigarette taxes.

Retailers who are determined to have sold tobacco and/or vaping products to underage persons will receive a summons for the Arvada Municipal Court in accordance with the proposed amendments to the Ordinance. The Police and City Attorney teams do not believe that the enforcement of the proposed amended Ordinance will significantly increase the caseload for the City Attorney's prosecution team and Municipal Court.

The proposed amendments to the Smoking Ordinance will substantially align with applicable State and Federal laws. The amendments include provisions intended to ensure retailer compliance, and to otherwise discourage underage persons from purchasing tobacco in Arvada.

The enforcement program as described herein will be primarily complaint driven with one annual proactive inspection per retail location. This level of enforcement can be sustained by the Police Department without the need of a licensing program which would exact fees from retailers. If there is a need for fees to be exacted in order to support more frequent inspections, the need for licensing can be reevaluated.

Public Contact

Posting of the City Council agenda. In addition, as stated previously herein, a letter was sent on May 26 to all Arvada retailers who sell tobacco and vaping products in order to notify them of the amendments to the City's Smoking Ordinance. The letter summarized the proposed amendments and stated that the City Council will consider the Ordinance during a public hearing scheduled for August 16.

Commission Recommendation

N/A.

Strategic Alignment

Consideration of the proposed amendments to the Smoking Ordinance aligns with the Organization and Service Effectiveness Priority Area of the City Council Strategic Plan.

Alternative Courses of Action

N/A.

Recommendation for Action

The Arvada team recommends that the City Council approve CB21-026, An Ordinance Enacting and Amending Certain Provisions of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code to Prohibit Persons Under the Age of 21 From Entering Smoking Businesses, to Prohibit the Sale or Distribution of Tobacco Products to Persons Under the Age of 21, and to Prohibit Self Service Displays of Tobacco Products.

Suggested Motion:

I move that CB21-026, An Ordinance Enacting and Amending Certain Provisions of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code to Prohibit Persons Under the Age of 21 From Entering Smoking Businesses, to Prohibit the Sale or

Distribution of Tobacco Products to Persons Under the Age of 21, and to Prohibit Self Service Displays of Tobacco Products, be (approved on final reading, numbered 4773 and ordered published by title only (rejected).

Prepared by:
Aaron Jacks, Assistant City Attorney

Reviewed by:
Gail Walker, Legal Specialist-Contracts 7/29/2021

Approved by:

Rachel Morris, City Attorney 7/29/2021
Lorie Gillis, Deputy City Manager 8/4/2021
Mark Deven, City Manager 8/4/2021

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 21- 026
ORDINANCE NO. 4773

AN ORDINANCE ENACTING AND AMENDING CERTAIN PROVISIONS OF DIVISION 3, SMOKING RESTRICTED IN PUBLIC PLACES, OF ARTICLE VII, AIR POLLUTION, OF CHAPTER 38, ENVIRONMENT, OF THE ARVADA CITY CODE TO PROHIBIT PERSONS UNDER THE AGE OF 21 FROM ENTERING SMOKING BUSINESSES, TO PROHIBIT THE SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21, AND TO PROHIBIT SELF SERVICE DISPLAYS OF TOBACCO PRODUCTS

WHEREAS, the City of Arvada adopted Ordinance No. 3919, the "Smoking Restricted in Public Places Ordinance" (the "Ordinance"), in 2004; and

WHEREAS, the Ordinance prohibited the smoking of tobacco products in public places in Arvada and prohibited the sale and distribution of cigarettes and tobacco products to minors; and

WHEREAS, the City of Arvada subsequently amended the Ordinance to regulate the sale of electronic smoking devices as tobacco products; and

WHEREAS, pursuant to the United States Code § 21 USC 387f, as amended effective December 20, 2019, and C.R.S. 18-13-121, as amended effective March 23, 2020, it is now unlawful under Federal and State law to sell tobacco products to persons under the age of 21; and

WHEREAS, research indicates that approximately 95 percent of smokers begin smoking before age 21, with most beginning before age 16, and that smokers frequently transition from experimentation to tobacco addiction between the ages of 18 and 21; and

WHEREAS, nicotine is known to be a highly addictive and extremely toxic substance which causes chronic disease; and

WHEREAS, the City Council has determined that amending the Ordinance to prohibit the sale of tobacco products to persons under the age of 21 and to prohibit the sale of tobacco products via self-service displays will protect against harm to the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

<u>Section 1.</u> Sec. 38-303, Definitions, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby amended by adding or amending certain definitions to read as follows:

“Self-service display means the display or storage of tobacco products or nicotine products in a manner that is physically accessible to the public without the assistance of an employee of a business that offers such products for sale. A vending machine is a type of self-service display.

Smoking business means:

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, nicotine products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale or manufacture of hookah or shisha products and related smoking products, including, but not limited to, any plant or other organic matter packaged for smoking or held out as a smoking product, or any sole proprietorship, corporation, partnership, or other enterprise engaged in the promotion of hookah or shisha smoking, sometimes referred to as a hookah bar, café, or lounge; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the manufacture of electronic smoking devices or other electronic smoking products and accessories or in the distribution or sale at wholesale of any of these devices, products, or accessories; or

A sole proprietorship, corporation, partnership, or other enterprise operating as a retail outlet deriving a majority of its revenue from the sale at retail of electronic smoking devices or other electronic smoking products and accessories, or which is engaged primarily in the sale at retail of electronic smoking devices or other electronic smoking products and accessories. This type of smoking business will be known as a specialty vaping store.

Tobacco product or *nicotine product* means:

A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or

Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including any electronic smoking device.

As used in this division, "tobacco product” or “nicotine product" does not include a product that the food and drug administration of the United

States department of health and human services has approved as a tobacco use cessation product."

Section 2. The last sentence of Sec. 38-304, Smoking prohibited, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby amended to read as follows:

"…. Any person who is 21 years of age or older may use or operate an electronic smoking device within a specialty vaping store as defined in section 38-303."

Section 3. Sec. 38-305, Minors prohibited on premises, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby repealed, retitled, and reenacted to read as follows:

"Sec. 38-305. Persons under age 21 prohibited on premises.

(a) It shall be unlawful for a person under the age of 21 years to be admitted to or be on the premises of a smoking business.

(b) The owner, operator, manager, or other person who controls a smoking business shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

"WARNING: It is illegal for any person under 21 years of age to be on the premises of this business, and upon conviction, a fine may be imposed.""

Section 4. Sec. 38-305.5, No distribution to minors, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby repealed, retitled, and reenacted to read as follows:

"Sec. 38-305.5 No distribution to persons under age 21; identification check and signage required; no sale by minors.

(a) It shall be unlawful to give, sell, distribute, dispense, or offer for sale to any person who is under 21 years of age a tobacco product or nicotine product, or coupon therefor.

(b) It shall be unlawful to give, sell, distribute, dispense, or offer for sale a tobacco product or nicotine product, or coupon therefor, to a person who appears to be under the age of 50 years without first examining the government-issued photographic identification of the person to confirm that they are at least 21 years of age.

(c) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

"WARNING: It is illegal to sell cigarettes, tobacco products, or nicotine products to any person under 21 years of age. State law requires that, to purchase tobacco products or nicotine products at this retail location, a person must present a valid government-issued photographic identification at the time of purchase if the person appears to be under fifty years of age."

(d) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit a person under eighteen years of age to sell or participate in the sale of cigarettes, tobacco products, or nicotine products. This section does not prohibit an employee of a business who is eighteen years of age or older but under twenty-one years of age from handling or otherwise having contact with cigarettes, tobacco products, or nicotine products that are offered for sale at such business."

Section 5. Sec. 38-306.5, Self-service displays prohibited, of Division 3, Smoking Restricted in Public Places, of Article VII, Air Pollution, of Chapter 38, Environment, of the Arvada City Code is hereby enacted to read as follows:

"Sec. 38-306.5. Self-service displays prohibited.

The display for sale of tobacco products or nicotine products by means of a self-service display is prohibited. The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit the display for sale of any such products by means of a self-service display."

Section 6. The remaining provisions of the Smoking Restricted in Public Places Ordinance shall remain unchanged.

Section 7. If any section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional, or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 8. This Ordinance shall take effect five days after publication following passage.

INTRODUCED, READ, AND ORDERED PUBLISHED this 2nd day of August, 2021.

PASSED, ADOPTED, AND APPROVED this 16th day of August, 2021.

____

Marc Williams, Mayor

ATTEST:

____

City Clerk

APPROVED AS TO FORM:

____

Rachel A. Morris, City Attorney

Publication Dates: August 5, 2021
August 19, 2021

REDLINE/STRIKEOVER VERSION

FOR INFORMATION ONLY -- NOT PART OF THE ORDINANCE

Underlined indicates new material
Double underlined indicates relocated material
~~Strikeover~~ indicates deleted material

Sec. 38-303. Definitions.

As used in this division, the following words are defined as follows:

Electronic smoking device means a device that can be used to deliver particulates or vaporized substances, including but not limited to nicotine, to the person inhaling from the device. An electronic smoking device may be homemade, manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, an electronic hookah, electronic pen, electronic pipe, a heat stick, a hookah, or under any other product name or descriptor. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration as a tobacco cessation product or for use in mitigating, treating, or preventing disease.

Public place means any indoor or outdoor facility or area that is open to members of the public who enter such facility or area, including but not limited to parks, trails, golf courses, mercantile establishments, restaurants, taverns, theaters, financial institutions, educational facilities, hospitals, health care facilities and institutions, libraries, auditoriums, arenas, assembly or meeting rooms, public conveyances including, but not limited to, taxicabs and limousines excepting those limousines that are under private hire, government-owned or operated means of mass transportation, including, but not limited to, buses, vans, and trains, all public transit platforms, waiting areas, and stations, governmental buildings, office buildings, restrooms, elevators, child care centers, outdoor customer seating areas, and waiting rooms of professional persons.

Self-service display means the display or storage of tobacco products or nicotine products in a manner that is physically accessible to the public without the assistance of an employee of a business that offers such products for sale. A vending machine is a type of self-service display.

Smoke or smoking means:

The possession of a lighted cigarette, cigar, or pipe containing tobacco or other matter or substance, regardless of its composition, or the lighting of such cigarette, cigar, or pipe; or

The possession of an electronic smoking device which is emitting a vapor or is otherwise active, burning, lit, or operating.

"Smoke or smoking" does not include the use or possession of a product specifically approved by the United States Food and Drug Administration as a tobacco use cessation product or for use in mitigating, treating, or preventing disease.

Smoking business means:

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, <u>nicotine products</u>, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale or manufacture of hookah or shisha products and related smoking products, including, but not limited to, any plant or other organic matter packaged for smoking or held out as a smoking product, or any sole proprietorship, corporation, partnership, or other enterprise engaged in the promotion of hookah or shisha smoking, sometimes referred to as a hookah bar, café, or lounge; or

A sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of electronic smoking devices or other smoking products, or accessories for these devices or products, either at wholesale or retail, in which the sale, manufacture, or promotion of other products is merely incidental. These businesses are sometimes referred to as a vaping bar, café, or lounge.

Sports arena means any indoor or outdoor sports pavilions, athletic fields, gymnasiums, swimming pools, roller and ice rinks, bowling alleys, and other similar places where members of the general public assemble either to engage in the physical exercise, participate in athletic competition, or witness sports events.

Tobacco means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking.

"Tobacco" also includes cloves and any other plant matter or product that is packaged for smoking.

~~*Cigarette,*~~ *Tobacco product* or *nicotine product* means:

A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or

Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device, including any electronic smoking device. ~~The device may be homemade, manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, an electronic hookah, electronic pen, electronic pipe, a heat stick, a hookah, or under any other product name or descriptor.~~

As used in this ~~section~~ division, "~~cigarette,~~ tobacco product~~,~~ or nicotine product" does not include a product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.

Sec. 38-304. Smoking prohibited.

It shall be unlawful for any person to smoke in any public place or sports areas as defined in the division or a cigar-tobacco bar as defined in C.R.S. §25-14-203.

Exceptions: The use of an electronic smoking device is allowed on stage at a theatrical production site if smoking by a theatrical character is an integral part of the storyline of the production.

Any person who is ~~18~~ 21 years of age or older may use or operate an electronic smoking device within a specialty vaping store as defined in section 38-303.

Sec. 38-305. ~~Minors~~ Persons under age 21 prohibited on premises.

(a) It shall be unlawful for a person under the age of ~~18~~ 21 years to be admitted to or be on the premises of a smoking business.

(b) The owner, operator, manager, or other person who controls a smoking business shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

"WARNING: It is illegal for any person under ~~18~~ 21 years of age to be on the premises of this business, and upon conviction, a fine may be imposed."

Sec. 38-305.5. No distribution to ~~minors~~ persons under age 21; identification check and signage required; no sale by minors.

(a) It shall be unlawful to give, sell, distribute, dispense, or offer for sale to any person who is under the age of ~~18~~ 21 years a ~~cigarette,~~ tobacco product~~,~~ or nicotine product, or coupon therefor.

~~(b) As used in this section, "cigarette, tobacco product, or nicotine product" means:~~
~~(1) A product that contains nicotine or tobacco or is derived from tobacco and is intended to be ingested or inhaled by or applied to the skin of an individual; or~~
~~(2) Any device that can be used to deliver tobacco or nicotine to the person inhaling from the device. The device may be homemade, manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, an electronic hookah, electronic pen, electronic pipe, a heat stick, a hookah, or under any other product name or descriptor.~~
~~(3) As used in this section, "cigarette, tobacco product, or nicotine product" does not include a product that the food and drug administration of the United States department of health and human services has approved as a tobacco use cessation product.~~

(b) It shall be unlawful to give, sell, distribute, dispense, or offer for sale a tobacco product or nicotine product, or coupon therefor, to a person who appears to be under the age of 50 years without first examining the government-issued photographic identification of the person to confirm that they are at least 21 years of age.

(c) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall post and keep at all times visible to the public in a conspicuous place on the premises, a sign to be provided by the city clerk's office which shall read as follows:

"WARNING: It is illegal to sell cigarettes, tobacco products, or nicotine products to any person under 21 years of age. State law requires that, to purchase tobacco products or nicotine products at this retail location, a person must present a valid government-issued photographic identification at the time of purchase if the person appears to be under fifty years of age."

(d) The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit a person under eighteen years of age to sell or participate in the sale of cigarettes, tobacco products, or nicotine products. This section does not prohibit an employee of a business who is eighteen years of age or older but under twenty-one years of age from handling or otherwise having contact with cigarettes, tobacco products, or nicotine products that are offered for sale at such business.

Sec. 38-306.5. Self-service displays prohibited.

The display for sale of tobacco products or nicotine products by means of a self-service display is prohibited. The owner, operator, manager, or other person who controls any business that sells tobacco products or nicotine products shall not permit the display for sale of any such products by means of a self-service display.

CITY OF ARVADA

REPORT TO CITY COUNCIL PUBLIC HEARING	AGENDA ITEM 10.C.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: CB21-027 An Ordinance Repealing and Reenacting Chapter 82, Purchasing and Contracts, of the Arvada City Code (Ordinance No. 4774)

Report in Brief

Local governments exist to provide services to their citizens. While many factors impact Arvada's ability to provide services, municipal operations depend on our ability to procure the goods and services necessary to support these operations. A well-crafted purchasing ordinance and policy provides structure for purchasing operations, provides guidance for City team members involved in procurement processes, and helps create transparency around City purchasing procedures.

Arvada's current Purchasing Ordinance has been in place for many years and it has been revised many times. In addition, the City Council recently authorized numerous changes to the current ordinance. As a result, City team members are recommending the entire Ordinance (Chapter 82 of the City Code) be repealed and reenacted.

The purposes of the proposed Ordinance and the companion Administrative Policy and Procedures related to the Purchasing Ordinance (Policy) are to clarify processes and procedures, promote competition, ensure the equitable treatment of those impacted by purchasing and contracting processes, and enhance the fiscal controls that maintain the integrity of Arvada's purchasing system.

The Arvada team recommends that the City Council approve CB21-027, An Ordinance Repealing and Reenacting Chapter 82, Purchasing and Contracts, of the Arvada City Code.

Financial Impact

The proposed Ordinance will have no discernible financial impact. While acknowledging this fact, the Arvada team believes that the proposed Purchasing Ordinance and Policy should be easier to understand and use and therefore result in more streamlined purchasing and contracting functions.

Background

As is the case with any large city, Arvada purchases many goods and services. Best municipal procurement practices require that cities purchase goods and services according to set laws and policies that promote competition and ensure the ethical administration of purchasing and contracting functions.

Arvada has had a purchasing ordinance in place since at least 1988. It has been revised many times. It has come to be seen as outdated and increasingly difficult to understand. In these cases, repealing and reenacting the entire ordinance is often the best course of action.

Multiple amendments to any law over long periods of time can lead to issues with the comprehension and application of its provisions. When regulatory frameworks are clear and fairly applied, they engender trust in City employees and the public alike.

Discussion

This table highlights some of the changes contained in the new ordinance:

The Purchasing Ordinance

Issue (Current Ordinance)	**Solution (Proposed Ordinance)**
Articles and sections are not arranged in a logical order.	Articles are arranged in a more logical order to better align with the City's solicitations and contracting processes.
Defined words / terms are not used in the ordinance.	Only words and terms used in the ordinance are defined; certain definitions have been updated or now conform to C.R.S. definitions. See sec. 82-4.
Ethics provisions are confusing.	Ethics rules are given a more prominent place and are easier to understand. See article II.
Solicitation methods and processes are confusing.	Solicitation methods are set forth in table format for ease of use. See Tables 82-41(c) and 82-42(a). The ordinance defines pre-qualification processes and recognizes that the City may pre-qualify vendors to do work for the City. It also creates rules for soliciting work from pre-qualified vendors. See secs. 82-4 and and 82-41(c).
Cooperative and emergency contracts rules are not very detailed.	Rules around the use of cooperative and emergency rules are more detailed. See secs. 82-42(c) and (d). See also Table 82-62(a).
Contract and purchase order approval and modification limits are much lower than peer cities; provisions are confusing.	Purchasing approval limits have been raised to conform to those in peer cities. See Table 82-62(a). Contracts of: --Up to $199,000.99 will be approved by directors and key team members; --Between $200,000 - $299,000.99 will be approved by the deputy city manager; --Between $300,000 - $499,999.99 will be approved by the city manager; and --$500,000 or more will be approved by city council. Provisions relating to monetary modifications are also set forth in Table 82-62.
Lack of guidance about approvals of unbudgeted purchases.	These purchases are addressed in Table 82-62(a).
The ordinance does not contain much information about fiscal controls.	Numerous fiscal controls have been added to the ordinance and the policy. They include: --Increased transparency around what is reported in the Weekly Memo (e.g., unbudgeted purchases will be reported). See Policy sec. 1.3.1; --Housing contracts, including those for housing rehabilitation, are subject to the ordinance (i.e., the exception for housing contracts has been removed from the Ordinance). See sec. 82.3(a); --Enhanced transparency around sole source purchases of more than $50,000 - sole source purchases will be reported to and published by the purchasing manager. See Policy sec. 5.2.1; --Cooperative contract purchases of $200,000.00 or more will be subject to enhanced oversight by the finance director. See sec. 82-42(c)(2); -- Monetary modifications (change orders) that push the total spend on a contract to more than $500,000.00 will go to CC for approval. See Table 82-62(a); and --Work done before a purchase order is issued or before council approval of a contract will be addressed by the deputy city manager. See Policy sec. 7.3.6.

A redline / strikethrough version containing all changes is attached to the proposed Ordinance.

The Purchasing Policy

Procurement and contracting tasks impact many employees across all City work systems. Over the years, Arvada has adopted several purchasing policies -- some of these policies are 40 years old. These policies do not conform to the current or proposed Purchasing Ordinances. This creates confusion and reduces transparency. Following a review of existing policies, the team is recommending that four existing purchasing policies be rescinded and replaced with the proposed Policy. Here is a summary of the features of the new Policy:

Issue (Current Policies)	**Solution (Proposed Policy)**
Existing policies are scattered across four City policies.	Policies are consolidated into one policy; the existing policies will be rescinded.
Existing policies refer to outdated processes or procedures.	Policy has been updated to conform to current practices.
Existing policies do not conform to the existing Purchasing Ordinance.	The proposed Policy will conform to the proposed Ordinance.
No existing policy refers to the ethical responsibilities of City employees	The proposed Policy contains ethics provisions that supplement the ethics rules contained in the proposed Ordinance. See sec. 2.
Existing policies do not contain very much information about solicitation processes.	Solicitation methods and processes are clearly outlined. See secs. 3-5. Pre-qualification processes are described in ways that reduce confusion. See sec. 4.
Existing policies do not detail the formation and use of purchase orders and contracts.	Provisions about the formation and use of purchase orders and contracts, as well as contract administration, have been added. See secs. 7-8.

If the City Council adopts the proposed Purchasing Ordinance, the proposed Policy will be adopted and promulgated by the City Manager. These documents will be disseminated to City team members, and team members will be trained on them as appropriate. Employees will be responsible for acting in accordance with the new Ordinance and Policy.

Public Contact

The City Council hosted a workshop on this topic in 2020. In addition, the City Council Agenda was posted.

Commission Recommendation

N/A

Strategic Alignment

The Ordinance aligns with the Organizational and Service Effectiveness Priority Area of the City Council Strategic Plan. Specifically, the following Principle within this Priority Area supports the recommended action:

Provides a well-managed, fiscally responsible government that operates effectively and efficiently while identifying revenue requirements to sustain current service levels and achieve future requested levels of service.

Alternative Courses of Action

N/A.

Recommendation for Action

The Arvada team recommends that the City Council approve CB21-027, An Ordinance Repealing and Reenacting Chapter 82, Purchasing and Contracts, of the Arvada City Code, on final reading.

Suggested Motion:

I move that CB21-027, An Ordinance Repealing and Reenacting Chapter 82, Purchasing and Contracts, of the Arvada City Code, be (approved on final reading, numbered 4774 and ordered published by title only) (rejected).

Prepared by:
Toni Riebschlager, Law Office Administrator

Reviewed by:

Approved by:

Rachel Morris, City Attorney	7/29/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 21-027

ORDINANCE NO. 4774

AN ORDINANCE REPEALING AND REENACTING CHAPTER 82, PURCHASING AND CONTRACTS, OF THE ARVADA CITY CODE

WHEREAS, the City Council has determined that public procurement processes must be conducted professionally and ethically; and

WHEREAS, Council finds that it is in the best interests of the city to promote competition in city bidding processes to the extent practicable; and

WHEREAS, Council finds that it is in the best interests of the city and the public to procure at a fair price those goods and services necessary for municipal operations; and

WHEREAS, Council finds that it is in the best interests of the city and the public to provide for a systematic, efficient, and effective procurement process done in accordance with existing laws and policies.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Chapter 82, Purchasing and Contracts, of the Arvada City Code is hereby repealed and reenacted to read as follows:

"PURCHASING AND CONTRACTS

ARTICLE I.

IN GENERAL

Sec. 82-1. Short title.

This chapter shall be known and may be cited as the "Purchasing Ordinance."

Sec. 82-2. Legislative declaration and intent.

The purpose of this chapter is to prescribe purchasing procedures for the city to follow in contracting for the construction of capital and other improvements, for the purchase of tangible goods, and for the acquisition of professional, consulting, and other services. This chapter shall be construed and applied to promote the following purposes: to simplify the law governing the city's procurement processes; to provide for transparency and public confidence in the city's procurement procedures; to ensure the fair and equitable treatment of all persons who deal with the city's procurement system; to facilitate city procurement activities; to maximize the purchasing value of public funds; to promote effective broad-based competition; and to maintain the quality and integrity of the city's fiscal controls and procurement system.

Sec. 82-3. Applicability.

(a) *Applicability.* This chapter applies to the city's procurement of goods and services, and to every expenditure of public funds for purchasing irrespective of the source of funds. This chapter applies to every city purchase or contract solicited after the effective date of this ordinance. The date of the solicitation shall be the date the solicitation is first published or issued by the city.

Exceptions. Except as otherwise set forth herein, the following contracts are excepted from the requirements of this chapter:

1. Advertising services;

2. Art for display, purchase, or performance, or agreements for the maintenance of art where the maintenance is done by the artist or by a foundation or other entity authorized by the artist or the artist's estate;

3. Continuing education programs, and professional memberships, licenses, and publications for city employees;

4. Employment contracts between city council and the city manager, the city attorney, and the presiding or other municipal court judges;

5. Emergency contracts awarded under section 82-42 of this chapter or as a result of a declared civil emergency, emergency, or local disaster under chapter 26 of this Code;

6. Food and merchandise purchased for resale at city golf course facilities, except that apparel purchased by the city for use by employees while on duty are subject to the requirements of this chapter;

7. Intergovernmental agreements;

8. Legal research tools, including books and software;

9. Outside legal counsel and investigators; and

10. Real property agreements including annexation agreements.

Sec. 82-4. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative policy or policies mean the "Administrative Policy and Procedures Related to the Purchasing Ordinance" as adopted by the city.

Award or intent to award means the selection of a bid or proposal by the city. An award does not mean that a contract has been executed or that a purchase order has been approved.

Award approval means the authorization of an award by the execution or approval of a purchase order, or by the execution of a contract by an authorized employee or city council.

Best value means a technique in a competitive solicitation process which emphasizes value over price and permits the evaluation of criteria such as qualifications, experience, and performance data to determine the best overall value to the city.

Bid means an offer of a price for goods or equipment.

Bidder means a person who files a submission in response to a city-issued solicitation, and includes a person who files a response to a request for bids, proposals, qualifications, or capital improvement project competitive sealed bids. It also includes a person who responds to a city request for qualifications for the purpose of pre-qualifying as a contractor to perform work for the city on as-needed basis.

Budgeted means included in the city council's approved budget.

City means the City of Arvada.

City attorney means the city attorney for the City of Arvada or designee thereof.

City manager means the manager of the City of Arvada or designee thereof.

Code means the Arvada City Code.

Construction means the process of building or replacing a city-owned building or structure, including but not limited to water infrastructure, bridges, or other city-owned infrastructure assets. Construction includes the demolition of bridges, water infrastructure, or other city-owned infrastructure assets, but does not include demolition of other city-owned structures or buildings. It also does not include the routine operation, repair, or maintenance of city-owned buildings or structures.

Contract means any type of city agreement, including a purchase order, between the city and a contractor, where the principal purpose is to acquire goods, service, or construction or to dispose of property for the benefit of the city. Contract includes a modification to a contract.

Contractor means any person having a contract with the city, regardless of what the person may be called or how the person is described.

Cooperative contract means a valid and current purchasing agreement negotiated by another entity for use by all public agencies that are members of the purchasing cooperative group.

Day means calendar day.

Director or *work system director* means a manager of a city work system or a department director.

Documented quote means a fiscal control where one or more valid written quotes are obtained as part of a solicitation process.

Electronic communication means an interactive communication that is transmitted electronically and capable of being produced in a written format, but does not include instant messaging, text messaging, or phone messages.

Electronic signature means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record to which it is affixed.

Emergency contract means a contract necessary to respond to urgent and compelling circumstances that create a threat to the public's health, safety, or welfare, or to an emergency declared under chapter 26 of this Code.

Employee means a regular or probationary full-or part-time city employee.

Fiscal control means a financial management practice designed to ensure expenditures are authorized by and in accordance with the amounts specified in the adopted budget, to reassure city council and citizens of responsible procurement and spending strategies, and to ensure all transactions are documented appropriately and in accordance with this Code and Colorado law.

Formal solicitation means a procurement method used for contracts or purchase orders of $50,000.00 or more that features the issuance of a public, written announcement of, or request for, bids, proposals, or qualifications.

Good or *goods* mean anything that has economic and physical utility, excluding real property, and includes those services incidental or necessary to providing the good or goods.

Modification means any written alteration of a contract, regardless of what it may be called, accomplished in accordance with terms of that contract, and includes a change order related to or renewal of an existing contract. A modification may be monetary or no cost in nature. An extension of a contract that results in the payment of additional funds to a contractor shall be deemed a monetary modification.

No cost procurement means the acquisition of a good or service following an unsolicited offer or an offer that did not arise from a competitive solicitation process, or from a provider that proposes the acquisition of a particular good or service by the city for free, at no charge, or on a complimentary basis.

Person means any business, individual, union, committee, club, other organization, or group of individuals.

Procurement or *procurement process* means the purchasing, renting, leasing, or otherwise acquiring of any goods, services, professional services, or construction. It includes all functions that pertain to the acquisition of any supply, service, or construction, including the description of requirements, the selection and solicitation of sources, solicitation and bid award protests, the preparation and award of a contract, and all phases of contract administration and claims.

Pre-qualify or *pre-qualification* means a process by which the city may solicit, evaluate, and select vendors for the purpose of creating a list of vendors eligible to perform work for the city on an as-needed or on-call basis, and which is completed in advance of identifying the specific service needed or work to be done.

Professional services means the services of accountants, architects, consultants, engineers, landscape architects, and other such professions which often result in the delivery of a written report or analysis.

Project owner means the director or designee thereof tasked with oversight and completion of a particular procurement project originating from within the work system.

Purchase order means a contract containing preprinted terms which is used as a tool in the city procurement process.

Purchasing manager means the manager of the city's purchasing program or designee thereof.

Real property means land and whatever is growing upon, erected upon, or affixed to land including water, mineral, and subsurface rights and excluding personal property.

Responsible means the capability in all respects to perform fully the contract requirements and the integrity and reliability that will ensure good faith performance.

Responsive means a bid or proposal submitted in a form prescribed by the city that meets the specifications, acceptability requirements, and terms and conditions of the solicitation.

Services mean the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports or items which are merely incidental to the required performance.

Sole source means a procurement process conducted without competition and in accordance with the provisions of this chapter for the acquisition of goods or services, or a contract awarded as a result of such a process.

Solicitation means the process of trying to obtain a good or service, and includes all documents and related information, whether attached or incorporated by reference, published prior to the response deadline on an electronic bidding system or otherwise in connection with that procurement effort.

Specification means any description of the physical or functional characteristics or of the nature of a good or service, or a description of any requirement for inspecting, testing, or preparing a good or service for delivery.

Variation means a statement submitted to the city by a bidder that outlines a request to alter or modify the terms of a solicitation.

Vendor means a person offering something for sale.

Work system means the organizational unit around which the city's workforce is structured and through which employees are grouped together according to the nature of the work they do to accomplish the city's strategic goals and objectives. Work system includes a department within a city work system.

Writing means any written recordings, papers, books, or documentary materials, regardless of physical form or characteristics, and includes emails or other electronic communication capable of being produced in a written format, but does not include instant messaging, text messaging, or telephone messages.

Sec. 82-5. Administrative policies and procedures.

The city manager may, with assistance from the finance director, develop or amend and promulgate under sec. 2-121 of this Code administrative policies and procedures necessary to implement the city's purchasing and contracts processes.

Sec. 82-6. Procurement records.

(a) *Procurement records public.* Subject to any limitations provided for by federal or state law concerning open access and right to privacy, all procurement information is hereby declared to be a public record and open for inspection pursuant to C.R.S. § 24-72-201 et seq., as may be amended, except the custodian of records may deny inspection of responses to solicitations until the award is approved or the city determines that it will not be awarding a contract.

(b) *Records maintenance and retention.* All procurement records shall be kept and maintained in accordance with the city's records retention schedule. The city clerk is the official custodian of city procurement records. The responsibility for keeping and maintaining procurement records is as follows:

(1) The purchasing manager shall keep and maintain records of all formal solicitation processes, solicitations for tasks of $50,000 or more performed under a contract with a pre-qualified vendor, all sole source justification records, and all records relating to emergency contracts.

(2) The director shall keep and maintain records of solicitations and contracts initiated by his or her department, except those ordinarily kept and maintained by the city clerk, or by the purchasing manager as set forth herein. The director is also responsible for ensuring that all bonds, notices, certificate of insurance, and other documents required by a contract are timely obtained, current, and maintained for record keeping purposes. The director may delegate any of these responsibilities, for any or all procurements, to the project owner or to another work system employee.

Sec. 82-7. Compliance with state and federal grant requirements.

When a procurement process involves the expenditure of state or federal grant or assistance funds, the procurement shall be done in compliance with all applicable state and federal laws, statutes, and other requirements. In these cases, employees must also act in accordance with the solicitation rules and other provisions of this chapter, and all applicable city policies. In the event of a conflict between state, federal, or city laws, statutes or other requirements, the most stringent, or strictest, law, statute, or requirement shall apply to the procurement.

Sec. 82-8. Conflicts.

To the extent of any conflict between this Code and the administrative policies relating to this Code, the provisions of this Code will prevail, and then the provisions of the administrative policies, in that order.

Secs. 82-9 – 82-20. Reserved.

ARTICLE II.

ETHICS IN CITY PROCUREMENT PROCESSES

Sec. 82-21. Purpose.

The conduct of city employees must hold the respect and confidence of the public. Unethical behaviors undermine the public's trust in government and the integrity of public procurement processes. Ethics provisions are intended to protect the integrity of the city's procurement processes, and encourage ethical conduct by employees and others involved in these processes.

Sec. 82-22. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Confidential information means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or available to the public on request.

Direct participation or *directly participating* means to be the project owner for a solicitation, or to be the director of the work system or department which initiated the solicitation.

Financial interest means:

(a) Any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, anything of value, except that receipt of an advertising or promotional item of minimal value by shall not be considered a financial interest;

(b) Ownership of five percent or more of any property or business; or

(c) Being an officer, director, trustee, or partner of, or being a manager, supervisor, employee, or holding a similar position in a business.

Exception: Assets held by an employee or an employee's family member in a disclosed blind trust shall not be deemed to be a financial interest that constitutes a conflict of interest with regard to matters pertaining to that financial interest.

Former employee means a person who was employed by the city within the past 12 months, but who is no longer employed by the city.

Gift, gratuity, or kickback means anything of value including but not limited to cash, a gift certificate, a gift card, loan, advance, service, or an offer of employment, either given or promised. It does not include an advertising or promotional item of minimal value, or the occasional donation at a city work site of perishable items for consumption by city employees.

Immediate family or *family* means an employee's spouse, child, parent, sibling, grandparent, or grandchild (including natural, step, adopted, foster, or in-law relationships); or a person whom the employee identifies as his or her significant other or domestic partner whose primary residence or place of primary abode is the same as the employee's.

Sec. 82-23. Unethical acts by employees—prohibited.

(a) *Conflicts of interest.* Every employee is responsible for being a good steward of city resources, and for carrying out procurement duties for the benefit of the city.

(1) Generally. It shall be unethical for an employee to use or attempt to use his or her position to gain financial benefit or avoid a financial loss to the employee or his or her family, if that opportunity is available only because the employee holds or held a position at the city.

(2) Financial conflict of interest. It shall be unethical for an employee to participate directly or indirectly in a solicitation process when the employee knows the employee or a member of the employee's immediate family has a financial interest pertaining to the award or the contract.

(i) Waiver. The city council may grant a waiver from this subsection (a)(2) upon making a written determination that the financial interest of the employee has been publicly disclosed, that the employee will be able to perform procurement functions without actual or apparent bias or favoritism, and that the award will be in the best interests of the city.

(3) Conflict of interest related to negotiating employment. It shall be unethical for an employee to participate directly or indirectly in a solicitation process when the employee is negotiating an employment arrangement with a bidder or prospective bidder involved in that solicitation process, or when the employee knows a member of the employee's family is negotiating an employment arrangement with a bidder or prospective bidder involved in that solicitation process.

(b) *Gift, gratuity, or kickback.* It shall be unethical for an employee to solicit, demand, accept, agree to accept, or keep for his or her own personal use, or for that of his or her family, any gift, gratuity, or kickback from another person in connection with any procurement process action, advice, decision, or recommendation made or done by that city employee.

(c) *Contemporaneous employment.* It shall be unethical for an employee who is participating directly or indirectly in a solicitation process to negotiate employment with, be, or to become the employee of any person contracting with the city while still a city employee. It shall also be unethical for an employee who has participated directly in a solicitation process to accept employment with, or to become the employee of any person contracting with the city as a result of that solicitation process within six months of leaving employment with the city. This provision shall not be construed to prevent any former employee from engaging in any lawful occupation at any place he or she sees fit, but merely to declare the practice of accepting employment under these circumstances contrary to best purchasing practices and unethical.

(1) Waiver. The city council may grant a waiver from this subsection (c) upon making a written determination that the contemporaneous employment of the city

employee has been publicly disclosed, that the employee will be able to perform procurement functions without actual or apparent bias or favoritism, and that the award will be in the best interests of the city.

(d) *Use of confidential information.* It shall be unethical for an employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

(e) *Attempt to influence city procurement process.* It shall be unethical for an employee to purposely influence or attempt to influence a city procurement process in a manner that provides the employee or his or her family with a personal financial gain that would not otherwise have been available to them, or that allows the employee or his or her family to avoid a financial loss, if it were not for the employee's position as an employee.

Sec. 82-24. Unethical acts generally—prohibited.

(a) *Contingent fees.* It shall be unethical for any person to be retained, or to retain a person, to solicit or secure a city contract upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except for the retention of a bona fide city employee or a bona fide commercial selling agency established for the purpose of securing business.

(b) *Gifts, gratuities, or kickbacks.* It shall be unethical for any person to offer, give, or agree to give any city employee or former city employee a gift, gratuity, or kickback in connection with any procurement process action, advice, decision, or recommendation by that employee or former employee.

(c) *Inducements.* It shall be unethical for any person to make, permit, or allow to be made to a prime or higher-tier contractor or a person associated with a prime or higher-tier contractor a gift, gratuity, or kickback as an inducement for the award of a subcontract or order in connection with a city solicitation, bid, or contract. It shall be unethical for a prime or higher-tier contractor to solicit or accept a gift, gratuity, or kickback from a prospective subcontractor in connection with a city solicitation, bid, or contract.

(d) *Negotiating employment.* It shall be unethical for any bidder or person representing a bidder in a city solicitation to negotiate with or offer employment to a city employee who is participating in that solicitation. It shall be unethical for a contractor to hire or employ a city employee or former employee whom the contractor knows or should know participated in the solicitation that resulted in the work awarded to that contractor within six months of the date of the award contract to that contractor.

Secs. 82-25 – 82-40. Reserved.

ARTICLE III.

SOLICITATIONS

Sec. 82-41. Competitive solicitation methods.

(a) *Acceptable methods.* The purchasing program is responsible for determining which solicitation method is appropriate to a procurement process in accordance with the provisions of this article. An employee responsible for purchasing goods or services for the city will use competitive solicitation methods whenever possible to effectuate the provisions of this chapter and to maximize the value of the public funds in ways that are efficient and effective in light of the degree of complexity associated with the good or service being purchased.

(1) Documented quotes. Documented quotes must be obtained using the city's highest ethical standards.

(b) *Best value procurement.* The city, through the purchasing division, will solicit requests for qualifications and requests for proposals based upon a best value procurement basis, which includes the evaluation of qualifications, experience, and proposed performance measures to award and renew contracts based upon the best value to the city.

(c) *Required solicitation methods: thresholds.*

COMPETITIVE SOLICITATION METHODS	
Amount / nature of the contract or task	**Required solicitation method**
For a contract up to and including $9,999.99	One documented quote: The project owner shall obtain and document one quote for the required good or service. Exception: A contract for computer software may be solicited as set forth in the administrative policy.
For a contract from $10,000.00 up to and including $49,999.99	Three documented quotes: The project owner shall obtain and document three quotes for the required good or service, and submit to the purchasing manager the contract and the three documented quotes. Exception: A contract for computer software may be solicited as set forth in the administrative policy.
For a contract of $50,000.00 or more, or for any contract for on-call or as-needed work with a pre-qualified vendor	Formal solicitation: The project owner shall follow the formal solicitation process set forth in the administrative policy.
For a task up to and including $49,999.99 *for which vendors have been*	One documented quote: The project owner shall obtain and document one quote from a vendor who has been pre-qualified to perform the type of work required, and who has a contract with

pre-qualified by the city and with whom the city has contracted for on-call or as-needed work	the city to perform the work on an on-call or as-needed basis.
For a task of $50,000.00 or more *for which vendors have been pre-qualified by the city and with whom the city has contracted for on-call or as-needed work*	Bid the eligible pool: The project owner shall publish the solicitation to all vendors who are pre-qualified by the city to perform the type of work required and who have sufficient value remaining on their on-call or as-needed work contract from which they may be paid for the work. No formal solicitation is required. The project owner shall submit to the purchasing manager the solicitation documentation, and each quote received. Exception: If the cost of the task exceeds the approved annual value of the contract of every vendor who is pre-qualified to perform the type of work required, or if no vendor pre-qualified to perform the work has sufficient value remaining on their on-call or as-needed work contract from which they may be paid for the work, the project owner shall formally solicit the work.

Table 82-41(c)

Nothing in this section 82-41(c) shall be construed to limit the city's ability to use a vendor who has not been pre-qualified to perform work if using a non- pre-qualified vendor is in the best interests of the city.

(d) *No contingencies.* No employee shall include or add a contingency amount to a solicitation. All monetary changes to contracts or purchase orders shall be processed using a change order, and in accordance with article IV of this chapter.

Sec. 82-42. Non-competitive solicitation methods.

(a) *Sole source contracts: thresholds.* Sole source contracts may be approved if the required documentation clearly demonstrates based on all of the facts and circumstances surrounding the acquisition of a good or service that the acquisition may only be achieved through the use of one product or vendor, and that there are no other products or vendors as suitable or acceptable to provide the good or service to the city. In determining whether a sole source purchase request meets these requirements, the city manager or purchasing manager may seek additional information about the purchase from the director, or consult any other city employee including the deputy city manager.

SOLE SOURCE CONTRACTS		
Amount of contract	**Process required**	**Authority to approve the sole source purchase request**

From $10,000.00 up to and including $49,999.99	The director shall submit to the purchasing manager a written sole source purchase request containing documentation sufficient to justify the purchase under this section.	The purchasing manager may approve the sole source request. Approval authority for the contract is as set forth in Table 82-62(a).
$50,000.00 or more	The director shall submit to the purchasing manager and the city manager a written sole source purchase request containing documentation sufficient to justify the purchase under this section.	The city manager may approve the sole source request. Approval authority for the contract is as set forth in Table 82-62(a).

Table 82-42(a)

Exceptions: All contracts for up to and including $9,999.00, and all contracts for computer software in an amount up to and including $49,999.99, shall be solicited as set forth in sec. 82-41(c).

(b) *No cost contracts.* An employee evaluating a no cost offer should evaluate additional terms or conditions connected to the no cost offer that create future obligations of any type for the city or for affected citizens.

(c) *Cooperative contracts.* Purchases of goods and services from valid cooperative entity agreements are exempt from competitive solicitation methods. The city must be a member of the cooperative through which it purchases a good or service.

(1) Aggregate purchases. If the amount of goods purchased under a cooperative contract from a single vendor will exceed $200,000.00 aggregated annually, the purchase must be done using a formal solicitation process. The formal solicitation may be among contractors who are pre-qualified by the purchasing program.

(2) Purchases of $200,000.00 or more. Notwithstanding any other provision of this ordinance, the finance director may, at his or her sole discretion, require a cooperative contract purchase of $200,000.00 or more related to, or in support of, a capital improvement project be done using a formal solicitation process.

(d) *Emergency contracts.*

(1) Approval. An emergency contract may be approved if all the facts and circumstances surrounding the emergency acquisition clearly demonstrate:

(i) The contract is necessary to respond to an urgent, unforeseen, and compelling circumstance that creates a threat to the public's health, safety or welfare, or is necessary under an emergency declared under chapter 26 of this Code;

(ii) The immediate procurement of the good or service is essential to prevent serious harm to the operation of the city, to city property, or to preserve the health, safety, or welfare of the public; and

(iii) There is insufficient time to procure the good or service through regular bidding and purchasing methods.

(2) Competition encouraged. Even in emergency situations, the city manager shall seek to ensure as much competition in the procurement of a good or service as is reasonable under the circumstances. The city manager should consult with the purchasing manager to the extent practicable in making emergency purchases.

(3) Limitations. Only those goods or services necessary to respond to or resolve an emergency may be procured under an emergency contract.

(4) Documentation. As soon as is reasonably practicable following an emergency purchase, the director of the department or work system responsible for the purchase shall submit to the city manager written documentation describing the nature of the emergency, the good or service acquired through the emergency contract, the amount paid for the good or service, and the reasoning behind the selection of the vendor or vendors chosen to meet the emergency need. The city manager shall then promptly submit this information to the purchasing manager and the city council.

(5) Powers of the city manager. Except as set forth herein, nothing in this subsection (d) is intended to limit or affect the powers or authority of the city manager under a declared civil emergency, emergency, or local disaster issued under chapter 26 of this Code.

(6) On-call contracts with pre-qualified vendors. Nothing in this subsection (d) shall be construed to limit the ability of the city to award emergency work to vendors who are pre-qualified to perform the services or work needed and who have on call or as-needed contracts with the city to perform that type of work, if the other requirements of this ordinance and the policy are met.

Sec. 82-43. Other solicitation methods.

The finance director may establish, through the administrative policies process, other competitive solicitation methods consistent with the provisions of this chapter and deemed to be in the best interests of the city.

Sec. 82-44. Electronic signatures—solicitations.

Subject to any limitations in the Colorado Uniform Electronic Transactions Act, by submitting a proposal to a city-issued solicitation for goods or services, a bidder agrees to the use of electronic signatures. Notwithstanding the foregoing, the city may require that any proposal be executed with manual signatures.

Sec. 82-45. Correction to or withdrawal of a bid.

Changes to a bid after the submission deadline may be allowed only when a bidder can show by clear and convincing evidence that a mistake of fact was made and that the mistake was unintentional. A request to correct a bid must be in writing, must be submitted to the purchasing manager within seven days of the bid opening, and must contain the bidder's name, address, city solicitation number and title. Nothing in this section precludes negotiations between the city and a bidder about the scope of work.

Sec. 82-46. Administration of solicitations.

The purchasing manager shall be responsible for administering all formal solicitations subject to the provisions of this chapter.

Sec. 82-47. Award.

(a) *Award.* The city will select the most qualified responsible and responsive bidder to receive the award. The award shall be based on the provisions of this chapter, the administrative policy, the specifications set forth in the solicitation, and the selection criteria deemed appropriate to the solicitation. Because an award by itself does not mean the award has also been approved, no vendor may claim reliance upon an award.

(b) *Variations.* A variation to the terms of a solicitation requested and submitted by a contractor is not agreed to by the fact of an award by the city. The city shall enter into a contract or issue a purchase order on the same terms and conditions that were included in the solicitation, except the city may, in its sole discretion, negotiate terms and conditions with the selected vendor within the scope of the solicitation. The city may also consider variation requests when selecting a bidder for an award. An award may be cancelled by the city if negotiations concerning a term or a condition or a requested variation are unsuccessful.

Sec. 82-48. Construction contract bid security.

(a) *Required.* Bid security shall be required for all invitations for bids for construction contracts on the city supplied form. Bid security shall be a bond provided by a surety company authorized to do business in Colorado, the equivalent in cash, or otherwise supplied in a form satisfactory to the city.

(b) *Amount.* Bid security shall be in an amount equal to at least 5% of the amount of the bid.

(c) *Rejection for noncompliance.* If a request for bids requires security, substantive noncompliance requires that the bid be rejected as nonresponsive.

(d) *Reduction in amount; waiver.* If the project owner estimates the amount of the bid to be less than $200,000.00, the work system director may reduce or waive the requirement of bid security.

Sec. 82-49. Construction contract performance and payment bonds.

(a) *Bonds.* When a construction contract is awarded, the following bonds shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

(1) Performance bond. A performance bond satisfactory to the city, executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to the city, in an amount equal to 100% of the price specified in the contract; and

(2) Payment bond. A payment bond satisfactory to the city, executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract, in an amount equal to 100% of the price specified in the contract.

(b) *Security.* In lieu of providing a performance or payment bond, a contractor may provide an unconditional letter of credit for 100% of the amount required. Such security must be in a form acceptable to the city attorney.

(c) *Reduction in amount.* If a construction contract is awarded in an amount less than $100,000.00, the director may reduce the amount of the performance and payment bonds or security or waive these requirements entirely if deemed appropriate by the director. For all other performance and payment bonds or security, the city manager may reduce the amount of the performance and payment bonds or security to 50% of the contract amount upon a written finding that it is in the best interests of the city to do so.

(d) *Additional bond requirements.* Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds or in circumstances other than those specified in this section.

Secs. 82-50– 82-60. Reserved.

ARTICLE IV.

CONTRACTING

Sec. 82-61. Contracting authority.

(a) *Authorized individuals.* The following employees are authorized to procure goods and services and perform other duties described in this chapter for the work system, department, division, or program for which they are responsible:

(1) The city manager;

(2) The deputy city manager;

(3) A work system director;

(4) The city engineer;

(5) The city's water treatment plant operator; and

(6) The purchasing manager. The purchasing manager is authorized to procure goods and services and perform other duties for the purchasing program or for work systems or departments as described in this chapter and the administrative policy.

The city manager may designate any other city employee to perform duties as described in this chapter and the policy.

(b) *Temporary delegation of authority.* Each authorized individual may temporarily delegate his or her purchasing duties to another employee in his or her chain of command. Any such delegation or notification must be in writing. Any person designated by the city to serve in an acting capacity for any of these positions is authorized to perform the purchasing duties set forth for that position while he or she serves in an acting capacity.

Sec. 82-62. Authority to approve, modify, and terminate contracts.

(a) *Approval; modification.* The authority to approve or modify a contract is set forth in the table below:

CONTRACT AND PURCHASE ORDER APPROVAL AND MODIFICATION AUTHORITY		
Amount / nature of the contract or purchase order?	**Who may approve?**	**Who may approve a monetary modification, or aggregated monetary modifications, to the contract or purchase order?**
No cost procurements, no cost modifications to an existing contract or purchase order, and contracts and purchase orders up to and including $199,999.99	A director, the city engineer, and the city's water treatment plant operator.	Up to and including $199,999.99: A director; Between $200,000.00 and $299,999.99: The deputy city manager; Between $300,000.00 and 499,999.99: The city manager; or Of $500,000 or more: The city council.
$200,000.00 up to	The deputy	Up to and including $299,999.99: The deputy city

and including $299,999.99	city manager.	manager; Between $300,000.00 and $499,999.99: The city manager; or Of $500,000 or more: The city council.
$300,000.00 up to and including $499,999.99	The city manager.	Up to and including $499,999.99: The city manager; or Of $500,000.00 or more: The city council.
$500,000.00 or more	The city council by resolution.	Up to 20% of the original contract amount, or $499,999.99, whichever is less: The city manager; or Of 20% or more of the original contract amount, or for $500,000.00 or more: The city council.
Unbudgeted purchases up to and including $49,999.99	A director.	Of $50,000.00 or more: The city council. Once approved by city council, the authority to approve a monetary modification or cumulative modifications will be determined by the amount of the modified contract or purchase order as set forth in this table.
Unbudgeted purchases of $50,000.00 or more	The city council by resolution.	Once approved by city council, the authority to approve a monetary modification or cumulative modifications will be determined by the amount of the modified contract or purchase order as set forth in this table.
Emergency contracts of any amount	The city manager.	The city manager.

Table 82-62(a)

(b) *Calculation of contract amount for purposes of approval or modification.* The annual aggregated amount of a contract calculated by fiscal year will be used to calculate the total amount of the contract for purposes of determining who is authorized to approve or modify it under this section. The original contract amount shall be added to the modification or cumulative modifications amount totals when calculating the aggregated monetary modification totals. In the case of a multi-year contract which the city may terminate at or within one year of the beginning of the term of the contract, the amount of the first year of the contract will be used to determine who is authorized to approve or modify the contract.

(c) *Termination of a contract.* Except as set forth in subsection (f) of this section, only the city manager may terminate a contract.

(d) *Dividing a contract.* No purchase permitted by this Ordinance shall be divided for the purpose of circumventing the requirements of this section. This includes modifying contracts that would result in circumvention of the requirements of this section.

(e) *City attorney approval required.* Except for purchase orders, the city attorney must approve all contracts as to form. This includes contracts otherwise excepted from the provisions of this chapter under sec. 82-3.

(f) *Special counsel contracts.* The city attorney has the authority of a director to approve and modify contracts. The city council authorizes the city attorney to enter into contracts for compensation to outside or special counsel and investigators, and also gives approval for these contracts up to the monetary limit set forth for directors in Table 82-62(a). Contracts for special or outside counsel that exceed this limit shall be submitted by the city attorney to city council for approval by whatever means the city council deems appropriate. The city attorney may terminate a contract with outside or special counsel or with an investigator.

Sec. 82-63. Contract formation.

(a) *Form of contract.* Subject to the limitations of this chapter, the city may use any contract appropriate to the procurement which best promotes the interests of the city.

(b) *No indemnification.* In accordance with Section 1 of Article XI of the Colorado Constitution, the city shall not agree to indemnify any third party.

(c) *Waiver of jury trial.* Any person entering into a contract for the sale or provisions of any type of good, service, or professional service to the city waives the right to a jury trial related to any contract claim.

(d) *Ordinances rules, regulations, and orders.* Each contractor shall be responsible for remaining fully informed of and complying with all applicable laws, ordinances, rules, regulations, and orders of the city, county, state, federal or other governmental entities having jurisdiction over the work or otherwise governing or affecting the goods or services supplied to the city under the contract.

Sec. 82-64. Multi-year contracts.

(a) *Multi-year contracts authorized.* Unless otherwise provided by law, the city may enter into a contract for the purchase of goods or services for any period of time deemed to be in the best interest of the city. The term of the contract and conditions of renewal or extension, if any, should be included in the solicitation. Funds shall be available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds, and these conditions shall be included as a provision of the multi-term contract.

(b) *Pricing.* Pricing in multi-year contracts shall be reasonably firm and documented for the initial and each renewal term of the contract such that the contract serves the best interests of the city.

(c) *Non-appropriation.* When funds are not appropriated or otherwise made available to support continuation of performance in a renewal period, the contract shall be terminated. Termination for non-appropriation shall not be deemed a breach of contract.

Secs. 82-65 – 82-80. Reserved.

ARTICLE V.

PROTESTS AND CLAIMS

Division 1.

Award protests

Sec. 82-81. Informal award protest—generally.

(a) *Required.* Before filing a formal protest of an award, an aggrieved person must first file an informal award protest notice with the purchasing manager.

(b) *Standing.* Only an actual bidder who is aggrieved by an award may protest that award.

Sec. 82-82. Informal award protest—process.

(a) *Deadline for filing informal award protest.* An aggrieved bidder must file an informal protest arising out of an award not later than 21 days after the closing date of the solicitation, unless the purchasing manager, in his or her sole discretion, finds the aggrieved bidder could not have known of the reason for the protest within those 21 days.

(b) *Method of filing informal award protest*. The aggrieved bidder shall contact the purchasing manager in writing and provide information specific enough for the purchasing manager to understand the award at issue, the nature of the award protest, and any suggested resolution to the asserted protest. In addition, the informal award protest must contain a statement that specifies the exact nature of the competitive disadvantage created by or as a result of the alleged issues in the city's award process, other than that the aggrieved bidder was not selected for the award.

(c) *Resolution of informal award protest*. The purchasing manager is authorized to review and respond to an informal protest of an award. If the purchasing manager finds there is no evidence of any competitive disadvantage created by or as a result of alleged issues in the city's award other than that the aggrieved bidder was not selected for the award, the purchasing manager shall deny the protest. The purchasing manager shall, within 14 days of receipt of the informal award protest, respond in writing to the aggrieved bidder in writing, stating the reason or reasons for the decision reached by the purchasing manager. The purchasing manager's response must contain a copy of the city's formal award protest form.

(d) *Status of the award upon filing of informal protest.* Upon the filing of an informal protest, the award process shall be held in abeyance until the purchasing manager issues a written response to the informal protest.

> Exception: If the city manager determines work related to the contested award is necessary to protect substantial city interests, the city manager may order the award approval process and work to proceed despite the filing of an informal protest.

(e) *Effect of failure to file informal award protest.* Failure of an aggrieved bidder to timely file an informal protest of an award shall be deemed a waiver of the right to file a formal protest of that award.

(f) *Appeal from denial of informal award protest.* Should the informal protest set forth herein not resolve the matter to the aggrieved bidder's satisfaction, the aggrieved bidder may then file a formal protest of the award as set forth in sec. 82-83.

Sec. 82-83. Formal award protest—process.

(a) *Standing.* Only a person aggrieved by the response of the purchasing manager issued under sec. 82-82(c) may file a formal protest of an award.

(b) *Deadline for filing formal award protest*. An aggrieved person must file a formal award protest not later than seven days after the date the purchasing manager issued the response to the informal protest as set forth in sec. 82-82(c).

(c) *Method of filing formal award protest*. The aggrieved person must file a formal award protest with the city clerk using a form provided by the city. The filing must include a copy of the purchasing manager's written response to the aggrieved person's informal award protest issued under sec. 82-82(c). The formal award protest form must be complete in all respects when submitted. A protest form that is not complete in all respects or that does not include a copy of the purchasing manager's written response shall be promptly returned by the clerk to the aggrieved person. An aggrieved person may resubmit a protest form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth in subsection (b) of this section.

(d) *Employee actions.* Once a completed formal award protest form has been timely submitted to the city clerk, the clerk shall notify the purchasing manager and the city manager of receipt of the protest. The purchasing manager shall, not later than seven days after submission of the completed formal protest form, file with the city manager all relevant documentation relating to the award, and may also submit to the city manager a statement summarizing the city's actions and Code provisions relevant to the matter.

(e) *Authority to settle matter or determine formal protest.* With the approval of the city attorney, the city manager is authorized to review and settle a protest of a bid award, and to issue a decision related to a bid award protest.

(f) *Issue; materiality.* The issue before the city manager in a formal award protest is whether an aggrieved person with standing has demonstrated by substantial and competent evidence that the bid award process violated the Code or other applicable law. For purposes of determining the outcome of a protest, an administrative or clerical error, or a defect that is not material to the award or that may be corrected by the city, shall not be considered a violation of the Code.

> (1) City manager's responsibilities. In evaluating a formal protest, the city manager shall review all information submitted by the aggrieved person and the purchasing manager, and may ask the aggrieved person or the purchasing manager for more information. Any such request and response shall be made a part of the record. The city manager may take into account any relevant procurement information, any relevant information provided by the aggrieved person or the purchasing manager, and also may notice any other relevant fact or circumstance.

(g) *Decision.* The city manager shall, not later than 21 days after submission of the completed formal award protest form, issue a written decision on the protest. The decision must contain the reason or reasons for the decision, as well as a description of the remedy, if applicable. The decision must set forth appeal rights, if any. The decision must be furnished to the aggrieved person in writing. Should the city manager fail to issue a written decision on the protest within the time frame set forth herein, the protest shall be deemed denied, and the aggrieved person may proceed as if an adverse decision has been received.

(h) *Delay of award.* If a formal award protest is timely filed by a person with standing, the award process may not proceed until the city manager has either issued a written decision on the protest or failed to issue a decision as set forth in subsection (g) of this section.

> Exception: If the city manager determines work related to the contested award is necessary to protect substantial city interests, the city manager may order the award process and work to proceed despite the filing of a formal protest. The city manager shall make a written finding to this effect. The city manager shall notify the aggrieved person that the award process and work will proceed, and also that the formal protest will proceed.

(i) *Effect of failure to file formal award protest.* Failure of a claimant to timely file a formal award protest claim shall be deemed a waiver of the contract claim.

(j) *Appeal.* The city manager's decision, or a denial of a protest as a result of the manager's failure to issue a written decision, shall be considered a final agency decision. An appeal of the city manager's decision may proceed under Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 82-84. Remedies for awards in violation of the law.

(a) *Remedies.* If the city manager determines an award violated the Code or other applicable law, the city manager may, with the approval of the city attorney, order any remedy the city manager deems appropriate to the circumstances.

(b) *Termination of the contract.* If the city manager allowed work on the contract to begin under the exception to sec. 82-83(h), and the manager finds cancellation of the contract is necessary as a result of the findings made in the formal award protest, the city manager may order the contract to be terminated. Termination by the manager under this provision shall not be considered a breach of the contract. The person awarded the contract will be compensated for the actual costs reasonably incurred under the contract through the time of the termination notice, if the person submits to the city manager an itemized invoice of those costs not later than 14 days after the termination notice.

Secs. 82-85 – 82-90. Reserved.

Division 2.

Contract claims

Sec. 82-91. Definitions. The following words, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Claim means any threatened or asserted demand or action arising from or related to the administration or completion of a city contract made by the contractor awarded the contract, and includes without limitation, disputes arising under a contract, those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission. A claim does not include an invoice or payment request submitted under the terms of a contract, although an invoice or payment request may be converted to a claim, if the amount is disputed or is not acted on within a reasonable period of time and if the contractor gives written notice to the city of the conversion. It also does not include a solicitation or bid protest.

Claimant means a person who is a party to city contract, who is aggrieved by an action or occurrence caused in whole or in part by a city employee that affects the completion of or payment on that contract, and who files an informal dispute resolution notice or a formal contract claim with the city.

Sec. 82-92. Generally.

(a) *Required.* Before filing a formal contract claim, a claimant must first file an informal contract claim dispute notice with the purchasing manager.

(b) *Standing.* Only a contractor who is a party to a city contract and who is aggrieved by an action or occurrence caused in whole or in part by a city employee and that affects the completion of that contract, or a person expressly authorized to act on the contractor's behalf, may file a claim. If a subcontractor or lower tier subcontractor lacks standing to file a claim because privity of contract does not exist between the city and the subcontract, a contractor with privity of contract may present the subcontractor's claim about that contract to the city on behalf of the subcontractor.

(c) *Election of alternate claim process.* The city may, in any contract, include provisions that govern the filing, consideration of, and payment of any or all claims by any party to the agreement arising out of or related to that contract. The claims procedure established under the agreement shall exclusively govern any claim arising out of that contract.

Sec. 82 – 93. Informal contract claim dispute notice—required.

(a) *Deadline for filing informal contract claim dispute notice.* A claimant must file an informal contract claim dispute notice not later than 14 days after the claimant knows or should have known of the facts giving rise to the claim, whichever is earlier.

(b) *Method of filing informal contract claim dispute notice*. The claimant shall contact the purchasing manager in writing and provide information specific enough for the purchasing manager to understand which contract is at issue, the nature of the occurrence giving rise to the contract dispute or disputes, the nature of the injury asserted by the contractor, and any suggested resolution to the asserted claim or claims.

(c) *Resolution of informal contract claim dispute*. The purchasing manager is authorized to review and respond to an informal contract claim dispute notice. The purchasing manager shall, as soon as is practicable, respond to the claimant in writing, stating the reason or reasons for the decision reached by the purchasing manager. The purchasing manager's response must contain a copy of the city's formal contract claim form.

(d) *Effect of failure to file informal contract dispute notice.* Failure of a claimant to timely file an informal contract claim dispute notice shall be deemed a waiver of the right to file a formal contract claim.

(e) *Appeal from denial of informal contract claim notice.* Should the informal contract claim dispute resolution process set forth herein not resolve the matter to the claimant's satisfaction, the claimant may then file a formal contract claim as set forth in sec. 82-93.

Sec. 82-94. Contract claim—formal process.

(a) *Standing.* Before filing a formal contract claim, a claimant must first file an informal contract claim dispute notice with the purchasing manager. Only a claimant aggrieved by the response of the purchasing manager issued under sec. 82-92(c) may file a formal contract claim.

(b) *Deadline for filing formal contract claim*. A claimant must file a formal contract claim not later than 14 days after the date the purchasing manager issued the response to the informal claim as set forth in sec. 82-92(c).

(c) *Method of filing formal contract claim*. A claimant must file a formal contract claim with the city clerk using a form provided by the city. The filing must include a copy of the purchasing manager's written response issued under sec. 82-92(c). The formal contract claim form must be complete in all respects when submitted. A formal contract claim form that is not complete in all respects or that does not include a copy of the purchasing manager's written response shall be promptly returned by the clerk to the claimant. A claimant may resubmit a claim form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth in subsection (b) of this section.

(d) *Employee actions.* Once a completed formal contract claim form has been timely submitted to the city clerk, the clerk shall notify the purchasing manager and the city manager of receipt of the claim. The purchasing manager shall, not later than seven days of submission of the completed formal contract claim form, file with the city manager all relevant documentation relating to the claim, including a copy of the solicitation, bid award, and executed contract. The purchasing manager may also submit to the city manager a statement summarizing the city's actions and Code provisions relevant to the matter.

(e) *Authority to settle or determine formal contract claim.* With the approval of the city attorney, the city manager is authorized to review and settle or determine a formal contract claim, and to issue a decision related to a formal contract claim. The city manager may take the following actions to settle or determine a claim:

(1) Deny the claim;

(2) Allow the claim if it is found to be valid or to have merit, and, if the claim is for an amount greater than that justly due the claimant, allow the claim in the amount justly due and deny it as to the balance; or

(3) Deny or compromise the claim if the legal liability of the city or the amount justly due is disputed.

If the city manager allows the claim in whole or in part, or compromises the claim, and if the claimant accepts the amount allowed or offered to settle the claim, the manager may require the claimant to accept that amount in settlement of the entire claim.

(f) *Issue; materiality.* The issue before the city manager in a formal contract claim matter is whether a claimant with standing has demonstrated by substantial and competent evidence that the claim is valid or has merit.

(1) Manager's responsibilities. In evaluating a claim, the city manager shall review all information submitted by the claimant and the purchasing manager, and may ask the claimant or the purchasing manager for more information. Any such request and response shall be made a part of the record. The city manager may take into account any

relevant information in the contract file, any relevant information provided by the claimant, and may also notice any other relevant fact or circumstance.

(g) *Decision.* The city manager shall, not later than 21 days of submission of the completed formal contract claim form, issue a written decision on the claim. The decision must contain the reason or reasons for the decision, as well as a description of the remedy, if applicable. The decision must set forth appeal rights, if any. The decision must be furnished to the claimant in writing. Should the city manager fail to issue a written decision on the claim within the time frame set forth herein, the claim shall be deemed denied, and the claimant may proceed as if an adverse decision has been received.

(h) *Effect of failure to file formal contract claim.* Failure of a claimant to timely file a formal contact claim shall be deemed a waiver of the contract claim.

(i) *Appeal.* The city manager's decision, or a denial of a claim as a result of the city manager's failure to issue a written decision, shall be considered a final agency decision. An appeal may proceed under Rule 106 of the Colorado Rules of Civil Procedure.

Secs. 82-95—82-100. Reserved."

Section 2. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. This ordinance shall be effective September 1, 2021.

INTRODUCED, READ, AND ORDERED PUBLISHED this 2nd day of August, 2021.

PASSED, ADOPTED, AND APPROVED this 16th day of August, 2021.

____
Marc Williams, Mayor

ATTEST:

____
City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: ____

Publication Dates: August 5, 2021
August 19, 2021

REDLINE/STRIKEOVER VERSION

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"PURCHASING AND CONTRACTS

ARTICLE I. IN GENERAL

Sec. 82-1. Short title.

This chapter shall be known and may be cited as the "~~"Arvada~~ Purchasing ~~and Contracts~~ Ordinance."~~."~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

Sec. 82-2. Legislative declaration and intent ~~Purposes~~.

The purpose of this chapter is to prescribe purchasing procedures for the city to follow in contracting for the construction of capital and other improvements, for the purchase of tangible goods, and for the acquisition of professional, consulting, and other services. This chapter shall be construed and applied to promote the following purposes: to ~~and policies:~~

~~(a) To~~ simplify~~, clarify, and modernize~~ the law governing the city's procurement processes; to~~by the City of Arvada;~~

~~(b) To~~ provide for ~~increased~~ transparency and public confidence in the city's~~procedures followed in public~~ procurement procedures; to~~;~~

~~(c) To~~ ensure the fair and equitable treatment of all persons who deal with the city's procurement system; to ~~of the City of Arvada;~~

~~(d) To~~ facilitate city procurement activities;~~ and~~ to maximize the purchasing value of public funds; to ~~of the City of Arvada;~~

~~(e) To~~ promote effective broad-based competition; and to maintain the quality and integrity of the city's fiscal controls and procurement system.

Sec. 82-3. Applicability.

~~((f) To establish safeguards for the maintenance of a procurement system of quality and integrity.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-3.~~) Applicability. This ~~Application and procurement procedures.~~

~~(a) Application. Except as set forth in subsection (b), this~~ chapter applies~~shall apply~~ to the city's procurement of goods and services~~, by the city~~ and to every expenditure of public funds for purchasing irrespective of the source of funds. This chapter applies to every city purchase or contract solicited after the effective date of this ordinance. The date of the solicitation shall be the date the solicitation is first published or issued by the city.~~, unless the procurement is listed as an exclusion.~~

Exceptions. Except as otherwise set forth herein, the following contracts are excepted from the requirements of this chapter:

1. Advertising services;

2. Art for display, purchase, or performance, or agreements for the maintenance of art where the maintenance is done by the artist or by a foundation or other entity authorized by the artist or the artist's estate;

3. Continuing education programs, and professional memberships, licenses, and publications for city employees;

4. Employment contracts between city council and the city manager, the city attorney, and the presiding or other municipal court judges;

5. Emergency contracts awarded under section 82-42 of this chapter or as a result of a declared civil emergency, emergency, or local disaster under chapter 26 of this Code;

6. Food and merchandise purchased for resale at city golf course facilities, except that apparel purchased by the city for use by employees while on duty are subject to the requirements of this chapter;

7.~~(b) Exceptions.~~
~~(1) Real property transactions;~~
~~(2) Annexation agreements;~~
~~(3)~~ Intergovernmental agreements;

8. Legal research tools, including books and software;

9. Outside~~(4) Contracts with outside~~ legal counsel and~~/or~~ investigators; and

10. Real property ~~(5) Employment~~ agreements including~~;~~
~~(6) Any contract for housing rehabilitation;~~
~~(7) Continuing education programs;~~
~~(8) Legal research tools, including, but not limited to, books and software;~~
~~(9) Professional memberships, licenses, and subscriptions;~~
~~(10) Advertising services, whether the advertising services are in physical or digital form;~~

~~(11) Purchases of art;~~
~~(12) Art exhibit agreements;~~
~~(13) Food products purchased for resale at banquet facilities and golf course facilities, and merchandise purchased for resale at golf course facilities; and~~
~~(14) Emergency contracts.~~
~~(c) City attorney review of contract exceptions. Notwithstanding the above, real property transactions,~~ annexation agreements.~~, intergovernmental agreements, and art exhibits must be approved as to form by the city attorney's office . If an agreement listed under subsection (b) utilizes a written contract template, the template must be approved as to form by the city attorney's office. To the extent that it applies, insurance shall be obtained on all excepted contracts. All excepted contracts shall be negotiated in the best interests of the city.~~
~~(d) Federal funds. When the procurement involves expenditure of federal funds, the procurement shall be conducted in accordance with any mandatory applicable federal laws or regulations.~~
~~(e) Grants, gifts bequests. Nothing in this chapter shall prevent compliance with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with section 13.6 of the Charter.~~
~~(f) No third party rights. This chapter does not create or confer any right or entitlement upon any person to bid on, or receive an award of any city contract.~~
~~(g) Effect of administrative rules directed to this chapter. All persons shall comply with the administrative rules or regulations (as amended from time to time) governing procedures for procurement of and contracting for goods and services under this chapter.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
Sec. 82-4.~~ Authorization.~~
~~(a) Authorized individuals and positions. The following individuals, and their duly appointed designees as provided for in this section, are authorized to procure goods and services and perform other duties described in this chapter as the appointing authority for their respective city department:~~
~~(1) City manager;~~
~~(2) City attorney;~~
~~(3) Municipal judge;~~
~~(4) Deputy city manager;~~
~~(5) Department heads;~~
~~(6) Purchasing division; and~~
~~(7) Any city employee designated in writing by the city manager to procure goods and services.~~
~~(b) Temporary delegation of authorization. The individuals identified above may temporarily delegate those responsibilities and duties to another employee in the chain of command.~~
~~(1) Delegation of authority must be in writing. A writing includes email or other electronic communication capable of being produced in a written format. A writing does not include instant~~

~~messaging, text messaging or phone messages. Written notification by an authorized individual that another employee is or will be designated as acting in the authorized individual's capacity during the authorized individual's absence will suffice as the temporary delegation of authorization required under this subsection.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-5.~~ Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative policy or policies mean the "~~rules, (formally, "~~Administrative Policy and Procedures Related to the Purchasing Ordinance" as adopted by the city.

Award or intent to award means the selection of a bid or proposal by the city. An award does not mean that a contract has been executed or that a purchase order has been approved.

Award approval means the authorization of an award by the execution or approval of a purchase order, or by the execution of a contract by an authorized employee or city council.

Best value means a technique in a competitive solicitation process which emphasizes value over price and permits the evaluation of criteria such as qualifications, experience, and performance data to determine the best overall value to the city.

Bid means an offer of a price for goods or equipment.

Bidder means a person who files a submission in response to a city-issued solicitation, and includes a person who files a response to a request for bids, proposals, qualifications, or capital improvement project competitive sealed bids. It also includes a person who responds to a city request for qualifications for the purpose of pre-qualifying as a contractor to perform work for the city on as-needed basis.

Budgeted means included in the city council's approved budget.

City means the~~Rules Governing~~ City of Arvada.~~ Purchasing and Contracts") for purposes of this chapter, means administrative rules or regulations governing procedures for procurement of and contracting for goods and services under this chapter.~~

~~Best value procurement means the application of methods, including but not limited to, total cost of ownership and performance based contracting to determine best value by weighing and balancing multiple factors, and requires the comparison of the benefits offered against life cycles, including the resources necessary to conduct the procurement, purchase price, fiscal tracking and processing costs, reliability, vendor responsiveness, risk, product/service quality, storage, maintenance, operational costs, integration, training, and disposal.~~

~~Bid means an offer of a price for goods, services, or equipment.~~
~~Change order means a written order signed and issued by the city, directing the contractor or vendor to make modifications authorized by the contract or negotiated with the contractor or vendor.~~
~~Confidential information means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or available to the public on request.~~

City attorney means the city attorney for the City of Arvada or designee thereof.

City manager means the manager of the City of Arvada or designee thereof.

Code means the Arvada City Code.

Construction means the process of building or~~, improving,~~ replacing a city-owned building or ~~demolishing any~~ structure, including but not limited to water infrastructure, bridges~~ or building~~, or other city-owned infrastructure assets. Construction includes the demolition of bridges, water infrastructure, or other city-owned infrastructure assets, but does not include demolition of other city-owned structures or buildings. ~~improvements of any kind to any real property.~~ It also does not include the routine operation,~~ and~~ repair, or ~~preventative~~ maintenance of city-owned~~existing structures,~~ buildings~~,~~ or structures.~~real property.~~
~~Construction bid means a bid process for the solicitation of capital improvement projects using a template approved by the city attorney's office.~~
Contract means any type of city agreement, including a purchase order, between the city and a contractor, where the principal purpose is to acquire goods, service, or construction or to dispose of property for the benefit of the city. Contract includes a modification to a contract.

Contractor means any person having a contract with the city~~all types of city agreements~~, regardless of what the person~~they~~ may be called or how the person is described.~~(e.g., agreements, addenda, amendments, purchase orders, etc.), for the procurement or disposal of goods, services, or construction. It does not include field orders.~~

Cooperative contract means a valid and current purchasing agreement negotiated by another entity for use by all public agencies that are members of the purchasing cooperative group.

Day means calendar day.

Director or work system director means a manager of a city work system or a department director.

Documented quote means a~~the manner of~~ fiscal control where one or more~~three~~ valid written quotes are ~~documented and attached to a purchase order for the purchasing program's review and storage. Documents quotes must be~~ obtained as part of a solicitation process.~~using the city's highest ethical standards, barring collusion or other unlawful practices.~~

Electronic communication means an interactive communication~~communications~~ that is~~are~~ transmitted electronically and capable of being produced in a written format, but ~~. Electronic communication~~ does not include instant messaging, text messaging, or phone messages.

Electronic signature means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record to which it is affixed.~~.~~

Emergency contract means a contract necessary to respond to urgent and compelling circumstances that create ~~necessitated by virtue of~~ a threat to the public's~~public~~ health, ~~welfare~~ safety, or welfare,~~other good cause as determined by the city manager~~ or to an emergency declared under chapter 26~~employee delegated the authority by the city manager.~~

~~Employee, for purposes~~ of this Code.~~chapter, means an individual drawing a salary, wages, or other monetary compensation from the city, whether elected or not; any uncompensated individual performing personal services for the city or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the city; or any uncompensated individual serving as an elected official of the city.~~

Employee means a regular or probationary full-or part-time city employee.

Fiscal control~~Financial interest~~ means a financial~~:~~

~~(1) Any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than $500.00 per year, or its equivalent;~~

~~(2) Ownership of five percent or more of any property or business; or~~

~~(3) Holding a position in a business such as officer, director, trustee, partner, employee, or the like, or holding any position of~~ management practice designed~~.~~

~~Fiscal controls means maintaining fiscal management practices~~ to ensure ~~that~~ expenditures are authorized by and in accordance with the amounts specified in the adopted budget, to reassure city council and citizens of responsible procurement and spending strategies, and to ensure all transactions are documented appropriately~~in an appropriate manner~~ and in accordance with this Code and Colorado law.

Formal solicitation means a procurement method used for contracts or purchase orders of $50,000.00 or more that features the issuance of a public, written announcement of, or request for, bids, proposals, or qualifications.

Good or goods mean~~Formal bid means a bid which has been submitted in a sealed envelope to prevent dissemination of its contents before the scheduled opening.~~

~~Formal proposal means an offer in a sealed envelope from a prospective provider where the city specifies the goals to be met and requests that the vendor apply its expertise in reaching these stated goals in the most effective method.~~

~~Goods means~~ anything that has economic and physical utility, excluding real property, and includes those services incidental or necessary to providing the good or goods.~~.~~

Modification means any written alteration of a contract, regardless of what it may be called, accomplished in accordance with terms of that contract, and includes a change order related to or renewal of an existing contract. A modification may be monetary or no cost in nature. An extension of a contract that results in the payment of additional funds to a contractor shall be deemed a monetary modification.

~~Gratuity means any payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.~~

~~Immediate family, for purposes of this chapter, means an employee's spouse, child, parent, sibling, grandparent, grandchild (including natural, step, adopted, foster, or in-law relationships); and also includes any other relative, or person who the employee identifies as his/her significant other or domestic partner whose primary residence or place of primary abode is the same as the employee.~~

~~Insurance means adequate insurance coverage that meets all city requirements, as promulgated by the risk manager.~~

No cost procurement~~purchase~~ means the acquisition of a good or service following an unsolicited offer~~,~~ or an offer that did not arise from a competitive~~documented~~ solicitation process, or from a provider that proposes the ~~particular~~ acquisition of a particular good~~goods~~ or service by the city~~services~~ for ~~"~~free,~~" or~~ at ~~"~~no charge, or on a complimentary basis.~~" Such offers usually contain additional terms and conditions that can stipulate future obligations for the city, financial or otherwise, that may not comply with this chapter, or any associated administrative rules.~~

Person means any business, individual, union, committee, club, other organization, or group of individuals.

Procurement or procurement process means the purchasing, renting, leasing, or otherwise acquiring of any goods, services, professional services, or construction. It~~also~~ includes all functions that pertain to the acquisition~~obtaining~~ of any supply, service, or construction, including the description of requirements, the selection~~,~~ and solicitation of sources, solicitation and bid award protests, the preparation and award of a contract, and all phases of contract administration and claims.~~. Procurement shall not include the buying, purchasing, renting or leasing of real property.~~

Pre-qualify or pre-qualification means a process by which the city may solicit, evaluate, and select vendors for the purpose of creating a list of vendors eligible to perform work for the city on an as-needed or on-call basis, and which is completed in advance of identifying the specific service needed or work to be done.

Professional services means the services of accountants, architects, consultants, engineers, landscape architects, and other such professions which often result in the delivery of a written ~~furnishing of labor, time, or effort by a contractor with specialized knowledge, which may include intensive preparation or education and the furnishing of a~~ report or analysis.~~written or oral advice and information.~~

Project owner means the director or designee thereof tasked with oversight and completion of a particular procurement project originating from within the work system.

~~Public cooperative agreement means a valid and current purchasing agreement negotiated by another public entity for use by all public agencies participating therein.~~
~~Public entity means the United States federal government, any state in the United States and any county, city, city and county, town or district, including any political subdivision thereof, or any instrumentality of a political subdivision thereof, or any association, whether incorporated or not, of the state, cities, city and county, towns or districts.~~
Purchase order means a contract containing~~form of contractual document,~~ preprinted ~~with~~ terms ~~pre-written or written on the document,~~ which is used as a tool in the city procurement process.

Purchasing manager means the manager~~for a city department or division, receiving area or vendor. It may include a standard set~~ of ~~terms used by~~ the city's purchasing program~~city~~ or designee thereof.~~vendor.~~
Real property means land and whatever is growing upon, erected upon, or affixed to land including water, mineral, and subsurface rights and excluding personal property.
Responsible means~~bidder or offeror means a person or entity who has~~ the capability in all respects to perform fully the contract requirements~~,~~ and the ~~tenacity, perseverance, experience,~~ integrity and~~,~~ reliability that~~, capacity, facilities, equipment, insurance and credit which~~ will ensure~~assure~~ good faith performance.
Responsive ~~bidder~~ means a bid~~person~~ or proposal~~entity who has~~ submitted ~~a bid or offer which conforms~~ in a form prescribed by~~all material respects to~~ the city that meets the specifications, acceptability requirements, and terms and conditions of~~ set forth in~~ the solicitation.
Services mean~~means~~ the furnishing of labor, time or effort by a contractor, not involving the delivery of a specific end product other than reports or items which are merely incidental to the required performance.

Sole source~~Solicitation or competitive solicitation~~ means a~~city invitations or requests for bids, requests for proposals, requests for qualifications, requests for quotation, and other accepted methods to solicit information and costs for~~ procurement process conducted without competition and in accordance with the provisions of this chapter for the acquisition of goods or~~,~~ services, or a contract awarded as a result of such a process.

Solicitation means~~construction for~~ the process of trying to obtain a good or service,~~city~~ and includes all documents and related information, whether attached or incorporated by reference, published prior to the response deadline on an electronic bidding system or otherwise in connection with that procurement effort.~~utilized for the solicitation.~~

Specification means any description of the physical or functional characteristics or of the nature of a good or~~,~~ service, or ~~construction item. It may include~~ a description of any requirement for inspecting, testing, or preparing a good or~~supply,~~ service~~, or construction item~~ for delivery.

Variation means a statement submitted to the city by a bidder that outlines a request to alter or modify the terms of a solicitation.

Vendor means a person offering something for sale.

Work system means the organizational unit around which the city's workforce is structured and through which employees are grouped together according to the nature of the work they do to accomplish the city's strategic goals and objectives. Work system includes a department within a city work system.

Writing means any written recordings, papers, books, or documentary materials, regardless of physical form or characteristics, and includes emails or other electronic communication capable of being produced in a written format, but does not include instant messaging, text messaging, or telephone messages.

~~Successful solicitation means the lowest responsive, responsible, and qualified bidder as determined by the city. Factors to be included may include the quality, availability, delivery of the product, qualifications of the contractor, vendor or consultant, and any special requirements relevant to the solicitation as determined by the city.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

Sec. 82-5. Administrative policies and procedures~~6. Public access to procurement information~~.

The city manager may, with assistance from the finance director, develop or amend and promulgate under sec. 2-121 of this Code administrative policies and procedures necessary to implement the city's purchasing and contracts processes.

Sec. 82-6. Procurement records.

(a) Procurement records public. Subject to any limitations provided for by federal or state law concerning open access and right to privacy, all procurement information is hereby declared to be a public record and open for inspection pursuant to C.R.S. § 24-72-201 et seq., as may be amended, except the ~~from time to time. The~~ custodian of records may deny inspection of responses to solicitations until ~~such time as~~ the award~~contract~~ is approved~~awarded~~ or the city determines that it will not be awarding a contract.

Records maintenance~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-7. Authority~~ and retention. All procurement records shall be kept and maintained in ~~duties of the purchasing manager.~~

~~(a) In~~ accordance with ~~this chapter, and subject to the supervision of the finance director, the purchasing manager shall:~~

~~(1) Advise, assist, and collaborate with appointing authorities on the administrative procedures and rules for quality and fiscal control of the procurement process;~~

~~(2) Upon consultation with the city attorney and with the approval of the city manager, debar or suspend firms or individuals from consideration for awards of contracts;~~

~~(3) Assist in dispute resolution of bid protests and contract claims;~~

~~(4) Collaborate with appointing authorities to determine the most appropriate method of procurement given the needs and best interest of the city and the nature of the goods or services being solicited; and~~

~~(5) The city manager may delegate, in writing, to the purchasing manager or appointing authority any of the functions that the city manager is to perform under this chapter.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-8. Authority to award and terminate contracts and contract modifications.~~

~~(a) City council. Award, modification and termination of contracts for more than \$150,000.00, are subject to the approval of the city council.~~

~~(b) City manager. The city manager is hereby authorized to approve, and terminate contracts that are \$150,000.00 or less, and to approve a modification, or cumulative modifications, of no more than 15% of the original contract amount, but not to exceed a total modification, or cumulative modifications, of \$150,000.00. The city manager is authorized to delegate the authority to approve contracts that are \$150,000.00 or less to the appointing authority as provided below.~~

~~(1) City manager modification of contracts approved by city council. The city manager shall have the authority to modify contracts originally awarded by the city council of no more than 15 percent of the original contract amount but the total modification, or cumulative modifications, is not to exceed \$150,000.00.~~

~~(2) Appointing authority approval and modification of contracts.~~

~~(i) Deputy city manager(s). The deputy city manager(s) is hereby authorized to approve contracts that are $125,000.00 or less, and to approve a modification, or cumulative modifications, of no more than 15 percent of the original contract amount, but not to exceed the total of $125,000.00.~~

~~(ii) Department heads. Department heads are hereby authorized to approve contracts that are $100,000.00 or less, and to approve a modification, or cumulative modifications, of no more than 15 percent of the original contract amount, but not to exceed the total of $100,000.00.~~

~~(3) Execution of insurance binders and renewals by city manager. Notwithstanding the dollar limits for award or modification of a contract provided in this Article I, the city manager shall nonetheless be authorized to execute and deliver binders for property and liability insurance and excess worker's compensation, or renewals or extensions of employee health or benefit insurance policies on behalf of the city under the following circumstances:~~

~~(i) The option to bind, renew or extend the insurance policy or execute a binder shall be a term or provision of a contract or policy authorized by the city council; and~~

~~(ii) The original insurance policy, whether property and liability, excess worker's compensation or employee health and benefit, to be bound, renewed or extended, as the case may be, shall have been previously recommended to the city council as being in the best interest of the city as determined through the appropriate procurement process provided for in Article II of this chapter; and~~

~~(iii) Funds shall be available in the current or projected budget for payment of premiums during any term or term of renewal or extension of such insurance policy.~~

~~(4) Finance director development and modification of administrative rules. The finance director shall have the authority to develop, modify, and amend administrative rules for procurement and contracts following the requirements set forth in the Code of the City of Arvada.~~

~~(c) Calculation of contract amount for multiple year contracts. Unless the terms of a multiple year contract allows the city to terminate the contract before or at the conclusion of a period of one year from commencement of the contract, the aggregate amount of multiple year contracts will be considered when calculating the total amount of the contract for purposes of the limitations on the ability to award, modify or terminate contracts under this chapter and under the administrative rules.~~

~~(d) No contract divided. No contract shall be divided for the purpose of circumventing the requirements of this section. This includes modifying or amending contracts that would result in circumvention of the requirements of this section.~~

~~(e) No contract approved, terminated or modified. Except as otherwise stated herein, no contract, with the exception of purchase orders, shall be approved, terminated, or modified unless such contract has first been approved as to form by the city attorney or designee thereof.~~

~~(f) Fiscal controls. The purchasing division shall develop a process to report to city council, on a regular basis, the award of new contracts.~~

~~(g) Approval of purchase orders. The purchasing division shall administer an approval process of purchase orders to ensure fiscal control of documented quotes and reporting of awards over $50,000.01 to city council.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-9. Electronic signatures and administration.~~

~~(a) Subject to any limitations in the Colorado Uniform Electronic Transactions Act, by submitting a proposal to a city issued solicitation for goods or services the person or entity agrees to the use of electronic signatures. Notwithstanding the foregoing, the city may, in its discretion, require that any such proposal be executed with manual signatures.~~

~~(b) The purchasing division shall be responsible for and maintain central administration of all electronic solicitations with the exception of quick quotes for goods, and city departments will coordinate with the purchasing division in its role in this regard.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Secs. 82-10 – 82-30. Reserved.~~

~~ARTICLE II. SOLICITATION THRESHOLDS AND METHODS~~

~~Sec. 82-31. Solicitation thresholds.~~

~~(a) $5,000.00 or less. At least one competitive, documented quote is required for purchases of goods and services in a total amount of $5,000.00 or less. Additional documented quotes are encouraged, but not required.~~

~~(b) $5,000.01 to $50,000.00. Purchases of goods or services from $5,000.01 through $50,000.00 require a competitive solicitation process called documented quotes, as defined in section 82-5. The process and procedure for obtaining documented quotes is set forth in the administrative rules.~~

~~(c) $50,000.01 and greater. Purchases of goods or services of $50,000.01 and greater shall require a formal solicitation process. The formal solicitation process is set forth in the administrative rules.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-32. Non-competitive and exceptional methods.~~

~~(a) Sole source of $5,000.01 to $50,000.00. A sole source may be used when the proposed purchase of goods and services between the amounts of $5,000.01 and $50,000.00 can only be achieved with one product or service that will meet the city's need and there is only one vendor capable of providing that product or service based on a written document, approved by the purchasing manager, that justifies a sole source with sufficient facts, circumstances, and reasoning to substantiate the sole source including an explanation as to why there are no other vendors suitable or acceptable to meet that need.~~

~~(b) Sole source of $50,000.01 and greater. A sole source may be used when the proposed purchase of goods and services in a total amount of $50,000.01 and greater can only be achieved with one product or service that will meet the city's need and there is only one vendor capable of providing that product or service based on a written document, approved by the city manager after consultation with the purchasing manager, that justifies a sole source with sufficient facts,~~

~~circumstances, and reasoning to substantiate the sole source including an explanation as to why there are no other vendors suitable or acceptable to meet that need.~~

~~(1) Approval of the sole source justification shall not preempt the authority of city council approval, except in the case of the emergency purchase of goods and services.~~

~~(2) The process and procedure for contracting for sole source procurement is set forth in the administrative rules.~~

~~(c) Emergency procurements and emergency contracts. Notwithstanding any provisions of this chapter, the city manager may authorize emergency procurements of goods and/or services when there exists a threat to public health, welfare, or safety, or other good cause exists, regardless of the dollar amount. Emergency purchases:~~

~~(1) Shall only be made when a situation creates an immediate and serious need for products and services that cannot be met through normal purchasing methods and the lack of which would seriously jeopardize the operation of the city, the preservation or protection of property or the health or safety of any person.~~

~~(2) Even in emergency situations, as much competition as is reasonable under the circumstances shall he obtained.~~

~~(3) Shall be limited to only the products and services specifically needed for resolving the emergency.~~

~~(4) The appointing authority shall promptly notify the purchasing manager if an emergency purchase is necessary so that any reasonable efforts toward emergency competition may be considered and documented.~~

~~(5) Upon resolution of the emergency, the appointing authority shall prepare a written document which describes the facts and circumstances of the emergency and the reasoning behind the selection of the vendor(s) chosen to meet the emergency need.~~

~~(d) Public cooperative agreements. Purchases of goods and services from valid public entity agreements are exempt from competitive solicitations.~~

~~(e) No cost purchases. Notwithstanding any other provision of this chapter no employee may accept a no cost purchase without approval by the city attorney's office.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-33. Competitive methods.~~

~~(a) Acceptable methods. Acceptable methods for obtaining competitive solicitations for goods and services in the best interest of the city, and consistent with the provisions of this chapter, shall seek to maximize the value of the public funds in the most efficient and effective manner that meets the city's requirements and the degree of complexity associated with the good or service being purchased.~~

~~(b) Best value procurement. The city, through the purchasing division, solicits requests for qualifications and requests for proposal based upon a best value procurement basis, which includes the evaluation of qualifications, experience, and performance measures to award and renew contracts based upon the best value to the city.~~

~~(c) Administrative rules. The application of specific methods, including directions is set forth in the administrative rules and any standardized document templates.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-34. Other procurement methods.~~

~~The finance director may establish, through the administrative rules process, other competitive procurement methods that are deemed to be in the best interest of the city and that are consistent with the provisions of this chapter.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Secs. 82-35—82-70. Reserved.~~

~~ARTICLE III. CONTRACT ADMINISTRATION~~

~~Sec. 82-71. Types of contracts.~~

~~Subject to the limitations of this section, any contract which is appropriate to the procurement and which will promote the best interest of the city may be used.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-72. Multi-term contracts.~~

~~(a) Unless otherwise provided by law, a contract for the purchase by the city of goods or services may be entered into for any period of time deemed to be in the best interest of the city; provided, however, the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds and such condition shall be included as a provision of the multi-term contract.~~

~~(b) Prior to the use of a multi-term contract, it shall be documented that estimated requirements cover the period of the contract and are reasonably firm and continuing; and that such a contract will serve the best interest of the city by encouraging effective competition or otherwise promoting economies in city procurement.~~

~~(c) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-~~the city's~~73. Right to audit records.~~

~~(a) The city may at reasonable times and places, audit the books and~~ records retention schedule. The city clerk is the official custodian of city procurement ~~of any contractor who has submitted cost or pricing data to the extent such books, documents, papers and~~ records ~~are pertinent to cost or pricing data.~~

~~(b) The city may audit the books and records of any contractor or subcontractor when a negotiated contract is not a firm fixed price contract and books, documents, papers and records are pertinent to the performance of such contract.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-74. Construction contract performance and payment bonds.~~

~~(a) When a construction contract is awarded, the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:~~

~~(1) A performance bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, in an amount equal to 100 percent of the price specified in the contract; and~~

~~(2) A payment bond satisfactory to the city, executed by a surety company authorized to do business in the state or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for the contract, which bond shall be in an amount equal to 100 percent of the price specified in the contract; and~~

~~(3) In lieu of providing a performance or payment bond, a contractor may provide cash or an unconditional letter of credit for 100 percent of the amount required. Such security must be in a form acceptable to the city attorney. The city shall hold any cash provided hereunder in an interest bearing account, and said interest shall be returned to the contractor at such time as said cash is returned; if all or part of the cash is converted to the city's ownership, the city shall also receive all or a pro-rata share of the interest.~~

~~(b) The appointing authority is authorized to reduce the amount of performance and payment bonds to 50 percent of the contract price for each bond when a written determination is made that is in the best interests of the city to do so.~~

~~(c) Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Secs. 82-75 – 82-100. Reserved.~~

~~ARTICLE IV. DEBARMENT OR SUSPENSION~~

~~Sec.~~. The ~~82-101. Authority to debar or suspend.~~

~~(a) Upon reasonable investigation, and after consultation with the city attorney, the purchasing manager is authorized to debar a person from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the city attorney, the purchasing manager is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person, or if the person is not an individual, any principal thereof, has engaged in any activity which might lead to debarment. In addition, a suspension may be similarly imposed on a person whose past or present conduct or contract performance with the city or any other entity, or if the person is not an individual, any principal thereof, whose past or present conduct or contract performance is deemed to be unduly uncooperative, inadequate, incomplete, inefficient, or otherwise unprofessional. The suspension shall be for a period not to exceed six months. The causes for debarment or suspension shall include but not be limited to:~~

~~(1) Conviction for commission of a criminal offense as an incident to performance or to obtaining or attempting to obtain a public or private contract or subcontract;~~

~~(2) Conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or honesty affects~~ responsibility for keeping and maintaining procurement records is as follows:~~as a city contractor;~~

(1) The purchasing manager shall keep and maintain records of all formal solicitation processes, solicitations for tasks of $50,000 or more performed under a contract with a pre-qualified vendor, all sole source justification records, and all records relating to emergency contracts.

(2) The director shall keep and maintain records of solicitations and contracts initiated by his or her department, except those ordinarily kept and maintained by the city clerk, or by the purchasing manager as set forth herein. The director is also responsible for ensuring that all bonds, notices, certificate of insurance, and other documents required by a contract are timely obtained, current, and maintained for record keeping purposes. The director may delegate any of these responsibilities, for any or all procurements, to the project owner or to another work system employee.

Sec. 82-7. Compliance with state and federal grant requirements.

When a procurement process involves the expenditure of state or federal grant or assistance funds, the procurement shall be done in compliance with all applicable state and federal laws, statutes, and other requirements. In these cases, employees must also act in accordance with the solicitation rules and other provisions of this chapter, and all applicable city policies. In the event of a conflict between state, federal, or city laws, statutes or other requirements, the most stringent, or strictest, law, statute, or requirement shall apply to the procurement.

~~(3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;~~
~~(4) Violation of contract provisions, as set forth in subsections (5) and (6) of this section, of a character which is regarded by the city manager to be so serious as to justify debarment action;~~
~~(5) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract;~~
~~(6) Recent record of failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;~~

~~(7) Any other cause the city manager determines to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity for any cause listed in this chapter; or~~
~~(~~Sec. 82-8. Conflicts.

To the extent~~) Violation~~ of any conflict between this Code and~~provision in~~ the administrative policies relating to this Code, the provisions of this Code will prevail, and then the provisions of the administrative policies, in that order.~~rules pertaining to ethics in public contracting.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
~~Sec. 82-102. Decision to debar or suspend.~~
~~The city manager shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning administrative review.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
~~Sec. 82-103. Notice of decision.~~
~~A copy of the decision required by section 82-102 shall be mailed or otherwise furnished to the debarred or suspended person.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
~~Sec. 82-104. Finality of decision.~~
~~A decision under section 82-102 shall be final unless the debarred or suspended person, within ten days after receipt of the decision, submits in writing to the city manager a request for an administrative hearing before the city manager. The administrative hearing shall be held in compliance with section 2-121 et seq.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
Secs. 82-9 – ~~105—~~82-20. ~~120.~~ Reserved.
ARTICLE II.~~V. APPEALS AND REMEDIES~~
~~Sec. 82-121. Authority of the city manager to settle bid protests and contract claims.~~
~~The city manager is authorized to settle, with the city attorney's approval, any protest regarding the solicitation or award of a city contract, or any claim arising out the performance of a city contract. Before protesting in writing to the purchasing manager as outlined in section 82-122, any actual or prospective bidder or contractor who has a grievance in connection with the solicitation or award of a contract shall first seek resolution of the matter with the appointing authority.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
~~Sec. 82-122. Bid protests.~~
~~(a) After first seeking resolution of the matter with the appointing authority, any actual or prospective bidder or contractor who has a protest in connection with the solicitation or award of a contract may protest in writing to the purchasing manager. A protest with respect to an invitation for bids or request for proposals, must be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and could not~~

~~have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. In any case, a written protest must be submitted within the following time period if the protest relates to the solicitation, bid, or proposal process, no later than ten days after the bid opening; or if the protest relates to the award of the contract, no later than ten days after the contract is awarded.~~

~~(b) In the event of a timely protest under subsection (a) of this section, the solicitation or award of the contract shall not proceed further until the purchasing manager has issued a written decision on the protest or until the city manager makes a determination that the award of a contract without delay is necessary to protect substantial interests of the city. If the purchasing manager does not, within 14 days after receiving the protest, or within such longer period as may be agreed upon by the parties, issue a written decision on the protest or make a determination that the award of the contract is necessary, the protest shall be considered denied.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-123. Contract claims.~~

~~(a) Except as stated in this subsection (a) of this section, all claims by a contractor against the city relating to a contract which has already been awarded by the city, must be submitted in writing to the appointing authority. The contractor may request a conference with the appointing authority on the claim. Claims include, without limitation, disputes arising under a contract, those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission, including purchase orders. This subsection shall not apply to the bid protest process described in section 82-122 or to any matter covered by the bid protest process.~~

~~(b) The decision of the appointing authority shall be issued in writing, and shall be mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under subsection (c) of this section. If the appointing authority does not issue a written decision regarding the claim within 14 days after receipt of the claim, or within such longer period as may be agreed upon between the parties, then the claim shall be considered denied and the aggrieved contractor may proceed as if an adverse decision has been received.~~

~~(c) The appointing authority's decision shall be final unless within 14 days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the city manager. If the city manager does not issue a written decision within 14 days after receipt of the written appeal, or within such longer period as may be agreed upon by the parties, the appeal shall be considered denied.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec. 82-124. Remedies for solicitations or awards in violation of law.~~

~~(a) If prior to the bid opening or the closing date for receipt of proposals, the appointing authority, after consultation with the city attorney, determines that a solicitation is in violation of federal, state, or municipal law, then the solicitation shall be canceled or revised to comply with applicable law.~~

~~(b) If after bid opening or the closing date for receipt of proposals, the appointing authority, after consultation with the city attorney, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be canceled.~~

~~(c) If after an award the appointing authority, after consultation with the city attorney, determines that a solicitation or award of a contract was in violation of applicable law, and if the person awarded the contract has not acted fraudulently or in bad faith, the contract may be ratified and affirmed; provided it is determined by the appointing authority that doing so is in the best interests of the city, or the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, prior to the termination.~~

~~(d) If the person awarded the contract has acted fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interest of the city.~~

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Secs. 82-125 – 82-140. Reserved.~~

~~ARTICLE VI.~~ ETHICS IN CITY PROCUREMENT PROCESSES~~PUBLIC CONTRACTING~~

Sec. 82-21. Purpose.

The conduct~~141. Employee conflict~~ of city employees must hold the respect and confidence of the public. Unethical behaviors undermine the public's trust in government and the integrity of public procurement processes. Ethics provisions are intended to protect the integrity of the city's procurement processes, and encourage ethical conduct by employees and others involved in these processes~~interest~~.

~~(a) It~~Sec. 82-22. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Confidential information means any information which is available to an employee only because of the employee's status as an employee of the city and is not a matter of public knowledge or available to the public on request.

Direct participation or ~~be unethical for any city employee to participate~~ directly participating means to be the project owner for a solicitation, or to be the director of the work system or department which initiated the solicitation.

Financial interest means:

(a) Any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, anything of value, except~~or indirectly in the contracting process when the city employee knows~~ that receipt of an advertising or promotional item of minimal value by shall not be considered a financial interest;

(b) Ownership of five percent or more of any property or business; or

(c) Being an officer, director, trustee, or partner of, or being a manager, supervisor,~~the~~ employee, or holding a similar position in a business.

Exception: Assets held by an employee or an employee's family~~ or any~~ member ~~of the city employee's immediate family has a financial interest pertaining to the contract, or any other person, business, or organization with whom the city employee or any member of the city employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the contract.~~
~~(b) A city employee or any member of a city employee's immediate family who holds a financial interest~~ in a disclosed blind trust shall not be deemed to be a financial interest that constitutes~~have~~ a conflict of interest with regard to matters pertaining to that financial interest.

Former ~~(Ord. No. 4625, § 1, 3-5-2018)~~
~~Sec. 82-142. Gratuities and kickbacks.~~
~~(a) It shall be unethical for any person to offer, give, or agree to give any city employee or former city employee, which means someone who was employed by the city within one year, or for any city employee or former city employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefor.~~
~~(b) It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
~~Sec. 82-143. Prohibition against contingent fees.~~
~~It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a city contract upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec.~~ employee means a person who was employed by the city within the past 12 months, but who is no longer employed by the city.

Gift, gratuity, or kickback means anything of value including but not limited to cash, a gift certificate, a gift card, loan, advance, service, or an offer of employment, either given or promised. It does not include an advertising or promotional item of minimal value, or the occasional donation at a city work site of perishable items for consumption by city employees.

Immediate family or family means an employee's spouse, child, parent, sibling, grandparent, or grandchild (including natural, step, adopted, foster, or in-law relationships); or a person whom the employee identifies as his or her significant other or domestic partner whose primary residence or place of primary abode is the same as the employee's.

~~82-144. Contemporaneous employment~~ Sec. 82-23. Unethical acts by employees—prohibited.

(a) Conflicts of interest. Every employee is responsible for being a good steward of city resources, and for carrying out procurement duties for the benefit of the city.

(1) Generally. It shall be unethical for an employee to use or attempt to use his or her position to gain financial benefit or avoid a financial loss to the employee or his or her family, if that opportunity is available only because the employee holds or held a position at the city.

(2) Financial conflict of interest. It shall be unethical for an employee to participate~~any city employee who is participating~~ directly or indirectly in a solicitation ~~the procurement~~ process when the~~to become or to be, while a city~~ employee knows~~,~~ the employee or a member of the employee's immediate family has a financial interest pertaining to the award or the contract.~~any person contracting with the governmental body.~~
~~(Ord. No. 4625, § 1, 3-5-2018)~~
~~Sec.~~
(i) Waiver. ~~82-145. Waivers from contemporaneous employment prohibition and other conflicts of interest.~~
The city council may grant a waiver from this subsection (a)(2)~~section 82-141 or section 82-144~~ upon making a written determination that the ~~contemporaneous employment or~~ financial interest of the ~~city~~ employee has been publicly disclosed, that the employee will be able to perform procurement functions without actual or apparent bias or favoritism, and that the award will be in the best interests of the city.

(3) Conflict of interest related to negotiating employment. It shall be unethical for an employee to participate directly or indirectly in a solicitation process when the employee is negotiating an employment arrangement with a bidder or prospective bidder involved in that

solicitation process, or when the employee knows a member of the employee's family is negotiating an employment arrangement with a bidder or prospective bidder involved in that solicitation process.

(b) Gift, gratuity, or kickback. It shall be unethical for an employee to solicit, demand, accept, agree to accept, or keep for his or her own personal use, or for that of his or her family, any gift, gratuity, or kickback from another person in connection with any procurement process action, advice, decision, or recommendation made or done by that city employee.

(c) Contemporaneous employment. It shall be unethical for an employee who is participating directly or indirectly in a solicitation process to negotiate employment with, be, or to become the employee of any person contracting with the city while still a city employee. It shall also be unethical for an employee who has participated directly in a solicitation process to accept employment with, or to become the employee of any person contracting with the city as a result of that solicitation process within six months of leaving employment with the city. This provision shall not be construed to prevent any former employee from engaging in any lawful occupation at any place he or she sees fit, but merely to declare the practice of accepting employment under these circumstances contrary to best purchasing practices and unethical.

(1) Waiver. The city council may grant a waiver from this subsection (c) upon making a written determination that the contemporaneous employment of the city employee has been publicly disclosed, that the~~and the city~~ employee will be able to perform procurement functions without actual or apparent bias or favoritism, and that the award will be in the best interests of the city.

~~(Ord. No. 4625, § 1, 3-5-2018)~~

~~Sec.~~

(d) ~~82-146.~~ Use of confidential information.

It shall be unethical for an~~any~~ employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

(e) Attempt to influence city procurement process. It shall be unethical for an employee to purposely influence or attempt to influence a city procurement process in a manner that provides the employee or his or her family with a personal financial gain that would not otherwise have been available to them, or that allows the employee or his or her family to avoid a financial loss, if it were not for the employee’s position as an employee.

~~(Ord. No. 4625, § 1, 3-5-2018)~~

Sec. 82-24. Unethical acts generally—prohibited.

(a) Contingent fees. It shall be unethical for any person to be retained, or to retain a person, to solicit or secure a city contract upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except for the retention of a bona fide city employee or a bona fide commercial selling agency established for the purpose of securing business.

(b) Gifts, gratuities, or kickbacks. It shall be unethical for any person to offer, give, or agree to give any city employee or former city employee a gift, gratuity, or kickback in connection with any procurement process action, advice, decision, or recommendation by that employee or former employee.

(c) Inducements. It shall be unethical for any person to make, permit, or allow to be made to a prime or higher-tier contractor or a person associated with a prime or higher-tier contractor a gift, gratuity, or kickback as an inducement for the award of a subcontract or order in connection with a city solicitation, bid, or contract. It shall be unethical for a prime or higher-tier contractor to solicit or accept a gift, gratuity, or kickback from a prospective subcontractor in connection with a city solicitation, bid, or contract.

(d) Negotiating employment. It shall be unethical for any bidder or person representing a bidder in a city solicitation to negotiate with or offer employment to a city employee who is participating in that solicitation. It shall be unethical for a contractor to hire or employ a city employee or former employee whom the contractor knows or should know participated in the solicitation that resulted in the work awarded to that contractor within six months of the date of the award contract to that contractor.

Secs. ~~82-147 —~~82-25 – 82-40. ~~160.~~ Reserved.

ARTICLE III.

SOLICITATIONS

Sec. 82-41. Competitive solicitation methods.

(a) Acceptable methods. The purchasing program is responsible for determining which solicitation method is appropriate to a procurement process in accordance with the provisions of this article. An employee responsible for purchasing goods or services for the city will use competitive solicitation methods whenever possible to effectuate the provisions of this chapter and to maximize the value of the public funds in ways that are efficient and effective in light of the degree of complexity associated with the good or service being purchased.

(1) Documented quotes. Documented quotes must be obtained using the city's highest ethical standards.

(b) Best value procurement. The city, through the purchasing division, will solicit requests for qualifications and requests for proposals based upon a best value procurement basis, which includes the evaluation of qualifications, experience, and proposed performance measures to award and renew contracts based upon the best value to the city.

(c) Required solicitation methods: thresholds.

COMPETITIVE SOLICITATION METHODS	
Amount / nature of the contract or task	Required solicitation method
For a contract up to and including $9,999.99	One documented quote: The project owner shall obtain and document one quote for the required good or service. Exception: A contract for computer software may be solicited as set forth in the administrative policy.
For a contract from $10,000.00 up to and including $49,999.99	Three documented quotes: The project owner shall obtain and document three quotes for the required good or service, and submit to the purchasing manager the contract and the three documented quotes. Exception: A contract for computer software may be solicited as set forth in the administrative policy.
For a contract of $50,000.00 or more, or for any contract for on-call or as-needed work with a pre-qualified vendor	Formal solicitation: The project owner shall follow the formal solicitation process set forth in the administrative policy.
For a task up to and including $49,999.99 for which vendors have been pre-qualified by the city and with whom the city has contracted for on-call or as-needed work	One documented quote: The project owner shall obtain and document one quote from a vendor who has been pre-qualified to perform the type of work required, and who has a contract with the city to perform the work on an on-call or as-needed basis.

For a task of $50,000.00 or more for which vendors have been pre-qualified by the city and with whom the city has contracted for on-call or as-needed work	Bid the eligible pool: The project owner shall publish the solicitation to all vendors who are pre-qualified by the city to perform the type of work required and who have sufficient value remaining on their on-call or as-needed work contract from which they may be paid for the work. No formal solicitation is required. The project owner shall submit to the purchasing manager the solicitation documentation, and each quote received. Exception: If the cost of the task exceeds the approved annual value of the contract of every vendor who is pre-qualified to perform the type of work required, or if no vendor pre-qualified to perform the work has sufficient value remaining on their on-call or as-needed work contract from which they may be paid for the work, the project owner shall formally solicit the work.

Table 82-41(c)

Nothing in this section 82-41(c) shall be construed to limit the city's ability to use a vendor who has not been pre-qualified to perform work if using a non- pre-qualified vendor is in the best interests of the city.

(d) No contingencies. No employee shall include or add a contingency amount to a solicitation. All monetary changes to contracts or purchase orders shall be processed using a change order, and in accordance with article IV of this chapter.

Sec. 82-42. Non-competitive solicitation methods.

(a) Sole source contracts: thresholds. Sole source contracts may be approved if the required documentation clearly demonstrates based on all of the facts and circumstances surrounding the acquisition of a good or service that the acquisition may only be achieved through the use of one product or vendor, and that there are no other products or vendors as suitable or acceptable to provide the good or service to the city. In determining whether a sole source purchase request meets these requirements, the city manager or purchasing manager may seek additional information about the purchase from the director, or consult any other city employee including the deputy city manager.

SOLE SOURCE CONTRACTS		
Amount of contract	Process required	Authority to approve the sole source purchase request

From $10,000.00 up to and including $49,999.99	The director shall submit to the purchasing manager a written sole source purchase request containing documentation sufficient to justify the purchase under this section.	The purchasing manager may approve the sole source request. Approval authority for the contract is as set forth in Table 82-62(a).
$50,000.00 or more	The director shall submit to the purchasing manager and the city manager a written sole source purchase request containing documentation sufficient to justify the purchase under this section.	The city manager may approve the sole source request. Approval authority for the contract is as set forth in Table 82-62(a).

Table 82-42(a)

Exceptions: All contracts for up to and including $9,999.00, and all contracts for computer software in an amount up to and including $49,999.99, shall be solicited as set forth in sec. 82-41(c).

(b) No cost contracts. An employee evaluating a no cost offer should evaluate additional terms or conditions connected to the no cost offer that create future obligations of any type for the city or for affected citizens.

(c) Cooperative contracts. Purchases of goods and services from valid cooperative entity agreements are exempt from competitive solicitation methods. The city must be a member of the cooperative through which it purchases a good or service.

(1) Aggregate purchases. If the amount of goods purchased under a cooperative contract from a single vendor will exceed $200,000.00 aggregated annually, the purchase must be done using a formal solicitation process. The formal solicitation may be among contractors who are pre-qualified by the purchasing program.

(2) Purchases of $200,000.00 or more. Notwithstanding any other provision of this ordinance, the finance director may, at his or her sole discretion, require a cooperative contract purchase of $200,000.00 or more related to, or in support of, a capital improvement project be done using a formal solicitation process.

(d) Emergency contracts.

(1) Approval. An emergency contract may be approved if all the facts and circumstances surrounding the emergency acquisition clearly demonstrate:

(i) The contract is necessary to respond to an urgent, unforeseen, and compelling circumstance that creates a threat to the public's health, safety or welfare, or is necessary under an emergency declared under chapter 26 of this Code;

(ii) The immediate procurement of the good or service is essential to prevent serious harm to the operation of the city, to city property, or to preserve the health, safety, or welfare of the public; and

(iii) There is insufficient time to procure the good or service through regular bidding and purchasing methods.

(2) Competition encouraged. Even in emergency situations, the city manager shall seek to ensure as much competition in the procurement of a good or service as is reasonable under the circumstances. The city manager should consult with the purchasing manager to the extent practicable in making emergency purchases.

(3) Limitations. Only those goods or services necessary to respond to or resolve an emergency may be procured under an emergency contract.

(4) Documentation. As soon as is reasonably practicable following an emergency purchase, the director of the department or work system responsible for the purchase shall submit to the city manager written documentation describing the nature of the emergency, the good or service acquired through the emergency contract, the amount paid for the good or service, and the reasoning behind the selection of the vendor or vendors chosen to meet the emergency need. The city manager shall then promptly submit this information to the purchasing manager and the city council.

(5) Powers of the city manager. Except as set forth herein, nothing in this subsection (d) is intended to limit or affect the powers or authority of the city manager under a declared civil emergency, emergency, or local disaster issued under chapter 26 of this Code.

(6) On-call contracts with pre-qualified vendors. Nothing in this subsection (d) shall be construed to limit the ability of the city to award emergency work to vendors who are pre-qualified to perform the services or work needed and who have on call or as-needed contracts with the city to perform that type of work, if the other requirements of this ordinance and the policy are met.

Sec. 82-43. Other solicitation methods.

The finance director may establish, through the administrative policies process, other competitive solicitation methods consistent with the provisions of this chapter and deemed to be in the best interests of the city.

Sec. 82-44. Electronic signatures—solicitations.

Subject to any limitations in the Colorado Uniform Electronic Transactions Act, by submitting a proposal to a city-issued solicitation for goods or services, a bidder agrees to the use of electronic signatures. Notwithstanding the foregoing, the city may require that any proposal be executed with manual signatures.

Sec. 82-45. Correction to or withdrawal of a bid.

Changes to a bid after the submission deadline may be allowed only when a bidder can show by clear and convincing evidence that a mistake of fact was made and that the mistake was unintentional. A request to correct a bid must be in writing, must be submitted to the purchasing manager within seven days of the bid opening, and must contain the bidder's name, address, city solicitation number and title. Nothing in this section precludes negotiations between the city and a bidder about the scope of work.

Sec. 82-46. Administration of solicitations.

The purchasing manager shall be responsible for administering all formal solicitations subject to the provisions of this chapter.

Sec. 82-47. Award.

(a) Award. The city will select the most qualified responsible and responsive bidder to receive the award. The award shall be based on the provisions of this chapter, the administrative policy, the specifications set forth in the solicitation, and the selection criteria deemed appropriate to the solicitation. Because an award by itself does not mean the award has also been approved, no vendor may claim reliance upon an award.

(b) Variations. A variation to the terms of a solicitation requested and submitted by a contractor is not agreed to by the fact of an award by the city. The city shall enter into a contract or issue a purchase order on the same terms and conditions that were included in the solicitation, except the city may, in its sole discretion, negotiate terms and conditions with the selected vendor within the scope of the solicitation. The city may also consider variation requests when selecting a bidder for an award. An award may be cancelled by the city if negotiations concerning a term or a condition or a requested variation are unsuccessful.

Sec. 82-48. Construction contract bid security.

(a) Required. Bid security shall be required for all invitations for bids for construction contracts on the city supplied form. Bid security shall be a bond provided by a surety company authorized to do business in Colorado, the equivalent in cash, or otherwise supplied in a form satisfactory to the city.

(b) Amount. Bid security shall be in an amount equal to at least 5% of the amount of the bid.

(c) Rejection for noncompliance. If a request for bids requires security, substantive noncompliance requires that the bid be rejected as nonresponsive.

(d) Reduction in amount; waiver. If the project owner estimates the amount of the bid to be less than $200,000.00, the work system director may reduce or waive the requirement of bid security.

Sec. 82-49. Construction contract performance and payment bonds.

(a) Bonds. When a construction contract is awarded, the following bonds shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

(1) Performance bond. A performance bond satisfactory to the city, executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to the city, in an amount equal to 100% of the price specified in the contract; and

(2) Payment bond. A payment bond satisfactory to the city, executed by a surety company authorized to do business in Colorado or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract, in an amount equal to 100% of the price specified in the contract.

(b) Security. In lieu of providing a performance or payment bond, a contractor may provide an unconditional letter of credit for 100% of the amount required. Such security must be in a form acceptable to the city attorney.

(c) Reduction in amount. If a construction contract is awarded in an amount less than $100,000.00, the director may reduce the amount of the performance and payment bonds or security or waive these requirements entirely if deemed appropriate by the director. For all other performance and payment bonds or security, the city manager may reduce the amount of the performance and payment bonds or security to 50% of the contract amount upon a written finding that it is in the best interests of the city to do so.

(d) Additional bond requirements. Nothing in this section shall be construed to limit the authority of the city to require a performance bond or other security in addition to those bonds or in circumstances other than those specified in this section.

Secs. 82-50– 82-60. Reserved.

ARTICLE IV.

CONTRACTING

Sec. 82-61. Contracting authority.

(a) Authorized individuals. The following employees are authorized to procure goods and services and perform other duties described in this chapter for the work system, department, division, or program for which they are responsible:

(1) The city manager;

(2) The deputy city manager;

(3) A work system director;

(4) The city engineer;

(5) The city's water treatment plant operator; and

(6) The purchasing manager. The purchasing manager is authorized to procure goods and services and perform other duties for the purchasing program or for work systems or departments as described in this chapter and the administrative policy.

The city manager may designate any other city employee to perform duties as described in this chapter and the policy.

(b) Temporary delegation of authority. Each authorized individual may temporarily delegate his or her purchasing duties to another employee in his or her chain of command. Any such delegation or notification must be in writing. Any person designated by the city to serve in an acting capacity for any of these positions is authorized to perform the purchasing duties set forth for that position while he or she serves in an acting capacity.

Sec. 82-62. Authority to approve, modify, and terminate contracts.

(a) Approval; modification. The authority to approve or modify a contract is set forth in the table below:

CONTRACT AND PURCHASE ORDER APPROVAL AND MODIFICATION AUTHORITY		
Amount / nature of the contract or purchase order?	Who may approve?	Who may approve a monetary modification, or aggregated monetary modifications, to the contract or purchase order?
No cost procurements, no cost modifications to an existing contract or purchase order, and contracts and purchase orders up to and including $199,999.99	A director, the city engineer, and the city's water treatment plant operator.	Up to and including $199,999.99: A director; Between $200,000.00 and $299,999.99: The deputy city manager; Between $300,000.00 and 499,999.99: The city manager; or Of $500,000 or more: The city council.
$200,000.00 up to and including $299,999.99	The deputy city manager.	Up to and including $299,999.99: The deputy city manager; Between $300,000.00 and $499,999.99: The city manager; or Of $500,000 or more: The city council.
$300,000.00 up to and including $499,999.99	The city manager.	Up to and including $499,999.99: The city manager; or Of $500,000.00 or more: The city council.
$500,000.00 or more	The city council by resolution.	Up to 20% of the original contract amount, or $499,999.99, whichever is less: The city manager; or Of 20% or more of the original contract amount, or for $500,000.00 or more: The city council.
Unbudgeted	A director.	Of $50,000.00 or more: The city council.

purchases up to and including $49,999.99		Once approved by city council, the authority to approve a monetary modification or cumulative modifications will be determined by the amount of the modified contract or purchase order as set forth in this table.
Unbudgeted purchases of $50,000.00 or more	The city council by resolution.	Once approved by city council, the authority to approve a monetary modification or cumulative modifications will be determined by the amount of the modified contract or purchase order as set forth in this table.
Emergency contracts of any amount	The city manager.	The city manager.

Table 82-62(a)

(b) Calculation of contract amount for purposes of approval or modification. The annual aggregated amount of a contract calculated by fiscal year will be used to calculate the total amount of the contract for purposes of determining who is authorized to approve or modify it under this section. The original contract amount shall be added to the modification or cumulative modifications amount totals when calculating the aggregated monetary modification totals. In the case of a multi-year contract which the city may terminate at or within one year of the beginning of the term of the contract, the amount of the first year of the contract will be used to determine who is authorized to approve or modify the contract.

(c) Termination of a contract. Except as set forth in subsection (f) of this section, only the city manager may terminate a contract.

(d) Dividing a contract. No purchase permitted by this Ordinance shall be divided for the purpose of circumventing the requirements of this section. This includes modifying contracts that would result in circumvention of the requirements of this section.

(e) City attorney approval required. Except for purchase orders, the city attorney must approve all contracts as to form. This includes contracts otherwise excepted from the provisions of this chapter under sec. 82-3.

(f) Special counsel contracts. The city attorney has the authority of a director to approve and modify contracts. The city council authorizes the city attorney to enter into contracts for compensation to outside or special counsel and investigators, and also gives approval for these contracts up to the monetary limit set forth for directors in Table 82-62(a). Contracts for special or outside counsel that exceed this limit shall be submitted by the city attorney to city council for approval by whatever means the city council deems appropriate. The city attorney may terminate a contract with outside or special counsel or with an investigator.

Sec. 82-63. Contract formation.

(a) Form of contract. Subject to the limitations of this chapter, the city may use any contract appropriate to the procurement which best promotes the interests of the city.

(b) No indemnification. In accordance with Section 1 of Article XI of the Colorado Constitution, the city shall not agree to indemnify any third party.

(c) Waiver of jury trial. Any person entering into a contract for the sale or provisions of any type of good, service, or professional service to the city waives the right to a jury trial related to any contract claim.

(d) Ordinances rules, regulations, and orders. Each contractor shall be responsible for remaining fully informed of and complying with all applicable laws, ordinances, rules, regulations, and orders of the city, county, state, federal or other governmental entities having jurisdiction over the work or otherwise governing or affecting the goods or services supplied to the city under the contract.

Sec. 82-64. Multi-year contracts.

(a) Multi-year contracts authorized. Unless otherwise provided by law, the city may enter into a contract for the purchase of goods or services for any period of time deemed to be in the best interest of the city. The term of the contract and conditions of renewal or extension, if any, should be included in the solicitation. Funds shall be available for the first fiscal year at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds, and these conditions shall be included as a provision of the multi-term contract.

(b) Pricing. Pricing in multi-year contracts shall be reasonably firm and documented for the initial and each renewal term of the contract such that the contract serves the best interests of the city.

(c) Non-appropriation. When funds are not appropriated or otherwise made available to support continuation of performance in a renewal period, the contract shall be terminated. Termination for non-appropriation shall not be deemed a breach of contract.

Secs. 82-65 – 82-80. Reserved.

ARTICLE V.

PROTESTS AND CLAIMS

Division 1.

Award protests

Sec. 82-81. Informal award protest—generally.

(a) Required. Before filing a formal protest of an award, an aggrieved person must first file an informal award protest notice with the purchasing manager.

(b) Standing. Only an actual bidder who is aggrieved by an award may protest that award.

Sec. 82-82. Informal award protest—process.

(a) Deadline for filing informal award protest. An aggrieved bidder must file an informal protest arising out of an award not later than 21 days after the closing date of the solicitation, unless the purchasing manager, in his or her sole discretion, finds the aggrieved bidder could not have known of the reason for the protest within those 21 days.

(b) Method of filing informal award protest. The aggrieved bidder shall contact the purchasing manager in writing and provide information specific enough for the purchasing manager to understand the award at issue, the nature of the award protest, and any suggested resolution to the asserted protest. In addition, the informal award protest must contain a statement that specifies the exact nature of the competitive disadvantage created by or as a result of the alleged issues in the city’s award process, other than that the aggrieved bidder was not selected for the award.

(c) Resolution of informal award protest. The purchasing manager is authorized to review and respond to an informal protest of an award. If the purchasing manager finds there is no evidence of any competitive disadvantage created by or as a result of alleged issues in the city’s award other than that the aggrieved bidder was not selected for the award, the purchasing manager shall deny the protest. The purchasing manager shall, within 14 days of receipt of the informal award protest, respond in writing to the aggrieved bidder in writing, stating the reason or reasons for the decision reached by the purchasing manager. The purchasing manager's response must contain a copy of the city's formal award protest form.

(d) Status of the award upon filing of informal protest. Upon the filing of an informal protest, the award process shall be held in abeyance until the purchasing manager issues a written response to the informal protest.

Exception: If the city manager determines work related to the contested award is necessary to protect substantial city interests, the city manager may order the award approval process and work to proceed despite the filing of an informal protest.

(e) Effect of failure to file informal award protest. Failure of an aggrieved bidder to timely file an informal protest of an award shall be deemed a waiver of the right to file a formal protest of that award.

(f) Appeal from denial of informal award protest. Should the informal protest set forth herein not resolve the matter to the aggrieved bidder's satisfaction, the aggrieved bidder may then file a formal protest of the award as set forth in sec. 82-83.

Sec. 82-83. Formal award protest—process.

(a) Standing. Only a person aggrieved by the response of the purchasing manager issued under sec. 82-82(c) may file a formal protest of an award.

(b) Deadline for filing formal award protest. An aggrieved person must file a formal award protest not later than seven days after the date the purchasing manager issued the response to the informal protest as set forth in sec. 82-82(c).

(c) Method of filing formal award protest. The aggrieved person must file a formal award protest with the city clerk using a form provided by the city. The filing must include a copy of the purchasing manager's written response to the aggrieved person's informal award protest issued under sec. 82-82(c). The formal award protest form must be complete in all respects when submitted. A protest form that is not complete in all respects or that does not include a copy of the purchasing manager's written response shall be promptly returned by the clerk to the aggrieved person. An aggrieved person may resubmit a protest form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth in subsection (b) of this section.

(d) Employee actions. Once a completed formal award protest form has been timely submitted to the city clerk, the clerk shall notify the purchasing manager and the city manager of receipt of the protest. The purchasing manager shall, not later than seven days after submission of the completed formal protest form, file with the city manager all relevant documentation relating to the award, and may also submit to the city manager a statement summarizing the city's actions and Code provisions relevant to the matter.

(e) Authority to settle matter or determine formal protest. With the approval of the city attorney, the city manager is authorized to review and settle a protest of a bid award, and to issue a decision related to a bid award protest.

(f) Issue; materiality. The issue before the city manager in a formal award protest is whether an aggrieved person with standing has demonstrated by substantial and competent evidence that the bid award process violated the Code or other applicable law. For purposes of determining the outcome of a protest, an administrative or clerical error, or a defect that is not material to the award or that may be corrected by the city, shall not be considered a violation of the Code.

(1) City manager's responsibilities. In evaluating a formal protest, the city manager shall review all information submitted by the aggrieved person and the purchasing manager, and may ask the aggrieved person or the purchasing manager for more information. Any such request and response shall be made a part of the record. The city manager may take into account any relevant procurement information, any relevant information provided by the aggrieved person or the purchasing manager, and also may notice any other relevant fact or circumstance.

(g) Decision. The city manager shall, not later than 21 days after submission of the completed formal award protest form, issue a written decision on the protest. The decision must contain the reason or reasons for the decision, as well as a description of the remedy, if applicable. The decision must set forth appeal rights, if any. The decision must be furnished to the aggrieved person in writing. Should the city manager fail to issue a written decision on the protest within the time frame set forth herein, the protest shall be deemed denied, and the aggrieved person may proceed as if an adverse decision has been received.

(h) Delay of award. If a formal award protest is timely filed by a person with standing, the award process may not proceed until the city manager has either issued a written decision on the protest or failed to issue a decision as set forth in subsection (g) of this section.

Exception: If the city manager determines work related to the contested award is necessary to protect substantial city interests, the city manager may order the award process and work to proceed despite the filing of a formal protest. The city manager shall make a written finding to this effect. The city manager shall notify the aggrieved person that the award process and work will proceed, and also that the formal protest will proceed.

(i) Effect of failure to file formal award protest. Failure of a claimant to timely file a formal award protest claim shall be deemed a waiver of the contract claim.

(j) Appeal. The city manager's decision, or a denial of a protest as a result of the manager's failure to issue a written decision, shall be considered a final agency decision. An appeal of the city manager's decision may proceed under Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 82-84. Remedies for awards in violation of the law.

(a) Remedies. If the city manager determines an award violated the Code or other applicable law, the city manager may, with the approval of the city attorney, order any remedy the city manager deems appropriate to the circumstances.

(b) Termination of the contract. If the city manager allowed work on the contract to begin under the exception to sec. 82-83(h), and the manager finds cancellation of the contract is necessary as a result of the findings made in the formal award protest, the city manager may order the contract to be terminated. Termination by the manager under this provision shall not be considered a breach of the contract. The person awarded the contract will be compensated for the actual costs reasonably incurred under the contract through the time of the termination notice, if the person submits to the city manager an itemized invoice of those costs not later than 14 days after the termination notice.

Secs. 82-85 – 82-90. Reserved.

Division 2.
Contract claims

Sec. 82-91. Definitions. The following words, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Claim means any threatened or asserted demand or action arising from or related to the administration or completion of a city contract made by the contractor awarded the contract, and includes without limitation, disputes arising under a contract, those based upon breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission. A claim does not include an invoice or payment request submitted under the terms of a contract, although an invoice or payment request may be converted to a claim, if the amount is disputed or is not acted on within a reasonable period of time and if the contractor gives written notice to the city of the conversion. It also does not include a solicitation or bid protest.

Claimant means a person who is a party to city contract, who is aggrieved by an action or occurrence caused in whole or in part by a city employee that affects the completion of or payment on that contract, and who files an informal dispute resolution notice or a formal contract claim with the city.

Sec. 82-92. Generally.

(a) Required. Before filing a formal contract claim, a claimant must first file an informal contract claim dispute notice with the purchasing manager.

(b) Standing. Only a contractor who is a party to a city contract and who is aggrieved by an action or occurrence caused in whole or in part by a city employee and that affects the completion of that contract, or a person expressly authorized to act on the contractor's behalf, may file a claim. If a subcontractor or lower tier subcontractor lacks standing to file a claim because privity of contract does not exist between the city and the subcontract, a contractor with privity of contract may present the subcontractor's claim about that contract to the city on behalf of the subcontractor.

(c) Election of alternate claim process. The city may, in any contract, include provisions that govern the filing, consideration of, and payment of any or all claims by any party to the agreement arising out of or related to that contract. The claims procedure established under the agreement shall exclusively govern any claim arising out of that contract.

Sec. 82 – 93. Informal contract claim dispute notice—required.

(a) Deadline for filing informal contract claim dispute notice. A claimant must file an informal contract claim dispute notice not later than 14 days after the claimant knows or should have known of the facts giving rise to the claim, whichever is earlier.

(b) Method of filing informal contract claim dispute notice. The claimant shall contact the purchasing manager in writing and provide information specific enough for the purchasing manager to understand which contract is at issue, the nature of the occurrence giving rise to the contract dispute or disputes, the nature of the injury asserted by the contractor, and any suggested resolution to the asserted claim or claims.

(c) Resolution of informal contract claim dispute. The purchasing manager is authorized to review and respond to an informal contract claim dispute notice. The purchasing manager shall, as soon as is practicable, respond to the claimant in writing, stating the reason or reasons for the decision reached by the purchasing manager. The purchasing manager's response must contain a copy of the city's formal contract claim form.

(d) Effect of failure to file informal contract dispute notice. Failure of a claimant to timely file an informal contract claim dispute notice shall be deemed a waiver of the right to file a formal contract claim.

(e) Appeal from denial of informal contract claim notice. Should the informal contract claim dispute resolution process set forth herein not resolve the matter to the claimant's satisfaction, the claimant may then file a formal contract claim as set forth in sec. 82-93.

Sec. 82-94. Contract claim—formal process.

(a) Standing. Before filing a formal contract claim, a claimant must first file an informal contract claim dispute notice with the purchasing manager. Only a claimant aggrieved by the response of the purchasing manager issued under sec. 82-92(c) may file a formal contract claim.

(b) Deadline for filing formal contract claim. A claimant must file a formal contract claim not later than 14 days after the date the purchasing manager issued the response to the informal claim as set forth in sec. 82-92(c).

(c) Method of filing formal contract claim. A claimant must file a formal contract claim with the city clerk using a form provided by the city. The filing must include a copy of the purchasing manager's written response issued under sec. 82-92(c). The formal contract claim form must be complete in all respects when submitted. A formal contract claim form that is not complete in all respects or that does not include a copy of the purchasing manager's written response shall be promptly returned by the clerk to the claimant. A claimant may resubmit a claim form deemed incomplete by the clerk, and the clerk shall accept it, if the resubmitted form is complete and submitted to the clerk within the deadline set forth in subsection (b) of this section.

(d) Employee actions. Once a completed formal contract claim form has been timely submitted to the city clerk, the clerk shall notify the purchasing manager and the city manager of receipt of the claim. The purchasing manager shall, not later than seven days of submission of the completed formal contract claim form, file with the city manager all relevant documentation relating to the claim, including a copy of the solicitation, bid award, and executed contract. The purchasing manager may also submit to the city manager a statement summarizing the city's actions and Code provisions relevant to the matter.

(e) Authority to settle or determine formal contract claim. With the approval of the city attorney, the city manager is authorized to review and settle or determine a formal contract claim, and to issue a decision related to a formal contract claim. The city manager may take the following actions to settle or determine a claim:

(1) Deny the claim;

(2) Allow the claim if it is found to be valid or to have merit, and, if the claim is for an amount greater than that justly due the claimant, allow the claim in the amount justly due and deny it as to the balance; or

(3) Deny or compromise the claim if the legal liability of the city or the amount justly due is disputed.

If the city manager allows the claim in whole or in part, or compromises the claim, and if the claimant accepts the amount allowed or offered to settle the claim, the manager may require the claimant to accept that amount in settlement of the entire claim.

(f) Issue; materiality. The issue before the city manager in a formal contract claim matter is whether a claimant with standing has demonstrated by substantial and competent evidence that the claim is valid or has merit.

(1) Manager's responsibilities. In evaluating a claim, the city manager shall review all information submitted by the claimant and the purchasing manager, and may ask the claimant or the purchasing manager for more information. Any such request and response shall be made a part of the record. The city manager may take into account any relevant information in the contract file, any relevant information provided by the claimant, and may also notice any other relevant fact or circumstance.

(g) Decision. The city manager shall, not later than 21 days of submission of the completed formal contract claim form, issue a written decision on the claim. The decision must contain the reason or reasons for the decision, as well as a description of the remedy, if applicable. The decision must set forth appeal rights, if any. The decision must be furnished to the claimant in writing. Should the city manager fail to issue a written decision on the claim within the time frame set forth herein, the claim shall be deemed denied, and the claimant may proceed as if an adverse decision has been received.

(h) Effect of failure to file formal contract claim. Failure of a claimant to timely file a formal contact claim shall be deemed a waiver of the contract claim.

(i) Appeal. The city manager's decision, or a denial of a claim as a result of the city manager's failure to issue a written decision, shall be considered a final agency decision. An appeal may proceed under Rule 106 of the Colorado Rules of Civil Procedure.

Secs. 82-95—82-100. Reserved."

CITY OF ARVADA
POLICY AND PROCEDURES

Authorized by City Manager: ____________________________

Policy No. ___________________ Effective date: _____________

Revision date(s): ____________

TITLE: **Administrative Policy and Procedures Related to the Purchasing Ordinance**

PURPOSE: This procurement management policy ("purchasing policy" or "policy") is meant to promote the purposes set forth in the Purchasing Ordinance and to provide employees involved in city procurement processes with guidance that allows them to make responsible business decisions on behalf of the city related to the acquisition of necessary goods and services, and to the management of city contracts. This policy is intended to support work systems by ensuring they acquire needed goods and services in a timely and cost effective manner, ensuring employees follow appropriate business practices throughout the procurement process, and facilitating proper monitoring of and reporting about the city's contract activities.

POLICY: It is the policy of the city that employees shall act in accordance with the city's Purchasing Ordinance and this policy to ensure that city procurement processes are conducted ethically and efficiently. The city recognizes that work systems are in the best position to determine what they need to run their programs, and that the purchasing program is best situated to determine how to most effectively and efficiently purchase goods and services for the city. While this approach recognizes the proficiency of the purchasing program, employees are responsible for understanding the city's Purchasing Ordinance and this policy, and for using their best business judgment in actions and decisions related to the city's procurement processes and the management of city contracts.

AUTHORITY: This policy is authorized under Arvada City Code (Code) sec. 82-5, and issued under Code sec. 2-121.

RESCISSION: Approval of this policy by the city manager shall serve to rescind the following city policies:

1000.08 Contract Management (Effective date: May 2, 2018);
3300.04 Purchasing Procedures (Effective date: November 15, 1982);
3300.05 Retaining Professional Consulting Services (Effective date: November 15, 1982) and

3300.06 Selecting Consultants on CDOT Contracts Using Federal Aid (Effective date: March 8, 2004).

DEFINITIONS: All words, terms, and phrases defined in Chapter 82, Purchasing and Contracts, of the Code are incorporated by reference into this policy. The following words, terms, and phrases, when used in this policy, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Contract coordinator means an employee or employees designated by a director to facilitate the administrative and procedural tasks associated with the management of that work system's or department's contracts through the CMP or otherwise.

Contract management process or *CMP* means a digital process or processes established by the city to manage legal and administrative tasks related to contract projects, including but not limited to requesting a contract, gathering and storing relevant information about contract activities and data, presenting a contract to those authorized to approve them in accordance with the Purchasing Ordinance, ensuring the proper execution of a contract, and managing contract renewals, extensions, and modifications.

Contract request form or *CRF* means an electronic form containing information pertinent to a procurement project that is to be completed and submitted by an employee to the city attorney's office each time a contract to acquire a good or service is needed by a work system, and each time a work system wishes to modify an existing contract. A CRF is one component of the city's CMP.

Insurance means an arrangement or agreement by which a company or public entity provides a guarantee of compensation for a specified loss, damage, or injury in return for consideration, and includes adequate coverage that meets all city requirements as determined by the city's risk manager.

Performance measures means a set of standards or metrics established to measure a contractor's performance in a service contract and in evaluating responses to solicitations.

OBJECTIVES: The city's goal in every transaction is to obtain the best value possible. The city strives to procure goods and services through uniform solicitation procedures that are professional and impartial, and to acquire those goods and services through the use of contracts that have terms and conditions appropriate to protect the city's interests.

CONFLICTS: This policy shall be read in conjunction with Chapter 82, Purchasing and Contracts, of the Code. To every extent possible, this policy should be construed and applied to promote the purposes of, and interpreted to harmonize, with the provisions of the Purchasing Ordinance. To the extent there are any conflicts between any of these documents, the provisions of the Purchasing Ordinance prevail, and then the provisions of this policy, in that order.

PROCEDURES:

1. EMPLOYEE ROLES AND RESPONSIBILITIES

1.1. Generally. In addition to any duties set forth in the Purchasing Ordinance or elsewhere in this policy, the following employees shall have the responsibilities set forth herein.

1.2. City attorney. The city attorney is responsible for designing or selecting the CMP. The city attorney shall collaborate with the work systems and departments in creating, adopting, and revising processes and procedures to efficiently manage the city's contracts through the CMP. For purposes of this policy, the city attorney or his or her staff may be referred to as "Legal."

1.3. City manager. The city manager is responsible for ensuring the city council receives information about city contracts as set forth herein.

1.3.1. *Memo to city council.* The city manager shall, in a regular and timely manner, submit to the city council a list of all newly awarded, formally solicited contracts of $50,000.00 up through and including $499.999.99 that were previously budgeted in the city council approved budget, and a list of all unbudgeted change orders of up and including $499,999.99 for CIPs. This information shall be provided to the city council by the manager as part of the manager's "Friday memo" to council, unless otherwise directed by council.

1.4. Contract coordinator. Each work system's or department's contract coordinator shall work with the project owner, the purchasing program, and Legal to coordinate the completion of tasks associated with the contracting process, including but not limited to the submission of a CRF, and the execution of each contract. At all times during the procurement process, the contract coordinator will update Legal (via CMP entry) about the status and outcome of contract negotiations, contract compliance issues, key communications, and performance measures assessment results.

1.5. Deputy city manager. The deputy city manager is responsible for reviewing after-the-fact purchase orders and premature contract work notices, and for transmitting information about those orders and notices to the city manager as appropriate.

1.6. Director. Each director shall:

1.6.1. *Training.* Ensure each work system or department employee receives training appropriate to the employee's role about the city's procurement processes. This training shall ensure that each work system or department employee who participates in a city procurement process is familiar with the Purchasing Ordinance and this policy; and

1.6.2. *Designate a contract coordinator.* Designate as a contract coordinator at least one work system or department employee. This designation may be changed at the sole discretion of the director.

Exceptions:

1. The director may designate the project owner as the contract coordinator for a specific contract project.

2. With the purchasing manager's permission, a director may designate a purchasing program employee as the contract coordinator for a specific project or for all purchasing projects from that work system or department.

1.6.3. *Provide information.* Provide to the city manager timely information about department or work system purchasing matters to assist the city manager in fulfilling his or his obligation to communicate with city council under sec. 1.3 of this policy.

1.7. Project owner. The project owner is a work system or departmental employee who serves as the subject matter expert about the goods or services being acquired by the city, and functions as the primary point of contact with Legal and the purchasing program about substantive matters related to the contract. At all times during the procurement process, the project owner shall ensure pertinent details of the project are communicated to the contract coordinator, if the contract coordinator is different than the project owner. If no contract coordinator has been designated for the project, the project owner shall fulfill the responsibilities of the contract coordinator.

1.8. Purchasing manager. The purchasing manager shall serve as the city's in-house purchasing expert. The purchasing manager shall assist work systems make informed, best value purchasing decisions. The purchasing manager is also responsible for ensuring goods and services are procured and paid for in a streamlined and efficient manner, creating and maintaining forms and databases necessary to facilitate the work of the purchasing program, validating cooperative participation agreements, ensuring compliance with applicable city and Colorado state diversity initiatives relating to purchasing to the extent practicable, encouraging the participation of local businesses in city procurement processes where practicable, and assisting city employees with procurement process tasks.

2. ETHICS IN CITY PROCUREMENT PROCESSES

2.1. Generally. It is the policy of the City of Arvada that employees act in the best interests of the city and avoid conflicts of interest in city procurement processes. Employees should understand that when it comes to conflicts of interest, appearances are as important as reality. Disclosure of real or apparent conflicts is one way to reduce the appearance of impropriety.

2.2. Employee conduct. In addition to the ethics prohibitions set forth in the Purchasing Ordinance, employees shall conduct themselves in accordance with the following:

2.2.1. *Standards.* Each employee who participates directly or indirectly in or is aware of a city procurement process shall act in accordance with the highest legal and ethical standards with regard to that procurement.

2.2.2. *Responsibility.* Each employee who participates directly or indirectly in a procurement process is responsible for ensuring that each action he or she takes in that process comports with the Code and this policy.

2.2.3. *Avoiding conflicts.* An employee shall not make a procurement decision for or on behalf of the city if his or her personal, professional, or economic interests, or those of his or her family, may be affected by that procurement decision in ways that do not accrue to other members of the public.

2.2.4. *Influence or attempt to influence.* An employee shall not engage in an action related to a procurement that would appear to a reasonable person as having been done to influence or attempt to influence a procurement action or decision for the benefit of that employee or that employee's family.

2.2.5. *Disclosure.* An employee who has a relationship with or to a bidder that might be perceived by a reasonable person as potentially influencing that employee's objectivity in any procurement process in which the employee is involved shall immediately disclose this situation in writing to his or her supervisor. This includes disclosure by an employee that he or she has entered into negotiations with or received an offer of employment from a bidder or a prospective bidder on a solicitation in which the employee is directly or indirectly participating. It also includes disclosure by an employee who knows or should know that a family member has entered into negotiations with or received an offer of employment from a bidder or prospective bidder on a solicitation in which the employee is directly or indirectly participating.

2.2.6. *Potential conflict of interest.* An employee who knows or should know of a potential conflict of interest related to a procurement process shall, immediately upon learning of the potential conflict, disclose the potential conflict in writing to his or her supervisor.

2.2.7. *Consultation.* An employee who is unsure about whether a particular circumstance constitutes a conflict of interest should consult with his or her supervisor.

2.3. <u>Accountability.</u> In accordance with the city's personnel rules, an employee who violates the provisions of the Purchasing Ordinance or this policy, or other city personnel rules or policies applicable to procurement activities, may be subject to corrective or disciplinary action.

3. SOLICITATIONS GENERALLY

3.1. <u>Solicitation procedures</u>. The type of solicitation used to acquire a particular good or service is determined by the amount of the purchase, among other factors. The purchasing manager is authorized to determine which solicitation method is most appropriate for a particular solicitation based on the Purchasing Ordinance and this policy. The project owner is responsible for consulting with the purchasing manager as needed in completing all solicitation tasks.

3.1.1. *Posting solicitation information.* Except for employees who work in the purchasing program, no employee shall post information related to any formal solicitation to the city's bidding and purchasing database.

3.2. Project owner tasks. The project owner shall ensure that applicable city ordinances, policies, and rules are followed in every solicitation. The project owner shall complete the following tasks:

3.2.1. *Insurance.* Consult with the risk manager to obtain approved insurance requirements;

3.2.2. *Scope of work.* Ensure the scope of work is as accurate as possible;

3.2.3. *Performance measurements.* Ensure the appropriate performance measures are either set forth in the solicitation, or are otherwise accounted for in a solicitation for a project that require such measures;

3.2.4. *Promote competition.* Ensure the solicitation is not tailored to favor one process, product, type of equipment, or vendor, such that the solicitation provides for open and fair competition;

3.2.5. *Legal requirements.* Ensure the solicitation includes specifications, the city's general terms and conditions, and the city's approved purchasing "Legal Requirements" and "Insurance Requirements" documents, as applicable to the procurement;

3.2.6. *Evaluation criteria.* Ensure the evaluative requirements used to award a contract conform to the technical requirements of each bid;

3.2.7. *Accountability.* To promote accountability in the city's procurement processes, ensure that only city employees are tasked with scoring or assessing the evaluative requirements in the solicitation process, except that members of the city council may also be responsible for these tasks;

3.2.8. *IT impact.* In the case of an acquisition with a computer software or hardware component, make Information Technology (IT) aware of the impending acquisition at the earliest practicable time to allow IT team members to incorporate the newly acquired components into existing city hardware and software systems; and

3.2.9. *Notification.* Notify the successful and other bidders as appropriate.

3.3. Solicitation irregularity. The purchasing manager may waive any minor solicitation defect or irregularity which does not affect the competiveness of or alter any material term of the solicitation.

3.4 Disqualification or rejection of a submission. A submission not filed by the time deadline stated in the solicitation is ineligible for consideration and will not be considered. A submission that is incomplete, nonconforming, nonresponsive, conditional, or fails to meet the requirements identified in the solicitation or bid specifications may be rejected by the city. The city shall not accept a solicitation submission from, nor award a contract to, a person who is in arrears to the city through debt or contract, who has defaulted on a surety or otherwise defaulted upon any financial obligation to the city, or who is engaged in active or open litigation against the city.

3.5 Correction or withdrawal of a bid or solicitation submission. Except as authorized by the Purchasing Ordinance or this policy, a solicitation submission shall be accepted without alteration. The city holds bidders responsible for the accuracy of their submissions. Bidders are responsible for reviewing and understanding all aspects of a solicitation prior to submitting a bid. Prior to submitting a bid, bidders should review the city's general and special contract terms and conditions that apply to the project, including those relating to: insurance requirements, shop drawings, inspection and testing of materials, order of procedure, and stated allowances. Bidders are responsible for examining and understanding any drawings and specifications related to a bid, and for the accuracy of the estimated quantities of goods or services necessary to complete the project on which they are bidding. Bidders must engage in all due diligence necessary to submit an accurate bid, including conducting a site examination, as necessary. A request to correct or withdraw an inadvertently erroneous submission shall be processed as follows:

3.5.1 *Before the bid opening or solicitation deadline.* A bidder who wishes to correct or withdraw a submission before a bid opening or solicitation deadline shall file written notice with the purchasing manager prior to the time set for bid opening or the solicitation deadline.

3.5.2. *After the bid opening or solicitation deadline.* A bidder who wishes to correct or withdraw a submission after the bid opening or solicitation deadline shall file a written request with the purchasing manager. A request to correct or withdraw an inadvertently erroneous bid after the bid opening or solicitation deadline shall be permitted only to the extent the bidder can show by clear and convincing evidence that an unintentional factual mistake was made. A request to correct a bid must also set forth the bid price actually intended. The city shall not accept a request to correct or withdraw a bid or solicitation submission after the bid opening or solicitation deadline where the bidder asserts he or she misunderstood the quantity or nature of the work to be done.

3.5.2.1. Based on the criteria set forth in sec. 3.5.2 above, the purchasing manager may, in his or her sole discretion, permit or deny the correction or withdrawal of a bid or solicitation submission filed after the bid opening or solicitation deadline. The purchasing manager's decision shall be in writing and shall contain the reason or reasons for the decision.

3.5.3. *Cancellation of award.* The purchasing manager may, at his or her sole option, cancel an award based on a bid mistake.

3.5.4. *Award.* A solicitation shall be awarded to the most qualified responsible and responsive bidder whose submission meets the requirements and criteria set forth in the solicitation. In the event the most qualified responsive bid exceeds the budgeted funds, or all responsive bids exceed the funds allocated for the purchase, the director may in his or her sole discretion reduce the scope of work, reject all bids, or negotiate an adjustment of the bid price with the lowest priced most qualified responsive bidder to bring the bid within the amount of available funds. Any term of a bid which is noted as a variation or an exception in response to a solicitation is subject to negotiation at the sole discretion of the director. If noted in a formal solicitation, the city may negotiate other terms of a bid, when doing so is in the best interests of the city.

3.5.4.1. Failure of a successful bidder to enter in to a contract with the city not later than 45 days following the date of the bid award may be considered by the city to be just cause to rescind the award to that bidder. The city may then award the bid to the next higher most qualified responsive bidder in the same manner as previously described.

3.6 Memo to city council. In order to allow city council time to review each award, work on any contract noted in the city manager's Friday memo to the council shall be held in abeyance for no fewer than five days after the city manager has submitted the memo to the council.

4. COMPETITIVE SOLICITATION METHODS

4.1. Generally. The city encourages the use of competitive solicitation methods. The city may use one of any number of competitive solicitation methods. These include documented quotes, and formal solicitations utilizing Requests for Bids (RFB), Requests for Proposals (RFP), and Requests for Qualifications (RFQ). Although the city ordinarily secures vendors by using solicitation methods at the time a good or service is needed, the city may also pre-qualify vendors to submit for certain work projects or for on-call professional services.

4.2. Documented quotes. A documented quote or quotes process shall be used for certain contract projects as set forth in Table 82-41(c) of the Code. A request for a documented quote need not be posted or published. Documented quotes may be returned to the city by any written means convenient to the city, including but not limited to email or other electronic means.

Exception: For acquisitions of software valued at up to and including $49,999.99, the project owner shall work in conjunction with IT to evaluate a minimum of three software provider options. The project owner and IT are not obligated to contact software vendors directly for documented quotes, but shall do due diligence in ensuring best value software acquisitions for the city.

For these software acquisitions, the project owner shall keep and maintain a log of tasks completed as part of the city's evaluation process, and a record of the reasons why the project owner and IT determined a particular software vendor should be awarded the software contract.

4.2.1. *Project owner tasks.* In addition to completing the tasks necessary for any procurement, the project owner managing a project for which documented quotes are required shall:

4.2.1.1. Ensure each documented quote carries the vendor's name and all appropriate contact information, the specific nature of the good or service about which the quote applies, the date of the quote, and the quote itself; and

4.2.1.2. Send the documented quote or quotes to the purchasing program.

4.2.2. *Award to other than the lowest bidder.* Subject to the approval of the purchasing manager, a project owner may award a contract to other than the lowest bidder. An award to other than the lowest bidder shall be documented in writing. The writing shall list the documented quotes, and include a detailed explanation containing the reason or reasons for the award.

4.2.3 *Pre-qualified vendors.* Responses to solicitations may be limited to persons who have been pre-qualified by the city through a previous pre-qualification process.

4.2.4. *Confidential.* Documented quotes shall remain confidential until the city either awards the bid or decides to not award the bid. Release of these records after the award or the decision to not award shall be governed by the Colorado Open Records Act.

4.3. Formal solicitations. A formal solicitation process shall be used for certain work as set forth in Table 82-41(c) of the Code. Formal solicitation processes shall be coordinated with the purchasing manager.

4.3.1. *Notice.* Adequate public notice is required for all formal solicitations, except for emergency contracts. Vendors must be given adequate time to prepare and submit formal bids. All formal solicitation processes must be posted by the purchasing manager to the city's selected electronic centralized government bid information platform. A solicitation for a capital improvement project must be posted or published at least 21 days before a vendor response is due, unless the purchasing manager approves a shorter time frame. An electronic RFP solicitation must be posted or published at least 14 days before a vendor response is due, unless the purchasing manager approves a shorter time frame. Electronic RFB/RFQ solicitations must be posted or published for at least seven days.

4.3.2. *Requests for bids.* In the case of an electronic solicitation, the city's selected electronic centralized government bid information platform shall serve as the repository for sealed bids until the time designated in the request.

4.3.3. *Bid submission.* A bid submission shall contain the solicitation name and number for which the bid is being submitted. If the bid requires a bidder to use a specific bid proposal form, the bid must be submitted using that form. The bid proposal form must be complete in all respects and executed when submitted.

4.3.4. *Bid opening.* Sealed formal bids shall be opened in the presence of one or more witnesses and read aloud at the time and place stated in the solicitation. All bid openings shall be open to the public. Should the purchasing manager determine in the purchasing manager's sole discretion that there exists good cause to delay a bid opening, the bid opening may be extended for a reasonable time, not to exceed seven days.

4.3.5. *Confidential.* The results of a bid review shall remain confidential until the city either awards the bid or decides to not award the bid.

4.3.6. *Award.* In accordance with the city's best value procurement strategy, the city may award a project for which a formal solicitation has been used to other than the lowest bidder.

4.4. Pre-qualification generally. Prequalification processes are often appropriate for work or services that are required by the city, but which arise intermittently or on an as-needed basis based on business needs. Using pre-qualified vendors to do work on an on-call or as-needed basis allows the city to respond quickly and effectively to service needs while still benefiting from a broad and competitive solicitation of qualified vendors. Except as set forth in the Purchasing Ordinance or herein, the city may use a prequalification process to fulfill contracts for professional services or other contracts as deemed in the best interests of the city. Work of an emergency nature (e.g., work needed to repair unexpected damage to infrastructure such as a roadway or underground utilities) may be performed on an on-call or as-needed basis under a contract with a vendor who has been pre-qualified by the city to perform that type of work.

4.4.1 *Process and selection of pre-qualified vendors.* A work system or department may pre-qualify vendors for general services or for specialized work. Pre-qualification processes must be formally solicited as RFQs. Each pre-qualification solicitation or process shall contain a time frame during which the pre-qualified vendors may be used by the city, as well as a statement of an annual, aggregate cap on the amount that may be paid out to vendors pre-qualified through that solicitation. In pre-qualifying vendors, the city shall consider:

4.4.1.1. The qualifications of the vendor;

4.4.1.2. The vendor's resources;

4.4.1.3. The vendor's ability to complete the anticipated contract work;

4.4.1.4. The past performance of the vendor on similar projects; and

4.4.1.5. Any other relevant information indicative of the vendor's ability to provide the best value to the city given the requirements of anticipated city projects.

4.4.2 *Final selection of a pre-qualified vendor to perform a task.* Each task performed by a pre-qualified vendor as a result of a pre-qualification process shall be done under an on-call or as-needed work contract approved by Legal. Once a contract for on-call or as-needed work with a pre-qualified vendor is in place, the project owner shall make a final selection of a vendor by soliciting work on a task basis and in conformance with the solicitation rules set forth in A.C.C. sec. 82-41(c) and this policy. The city may use any reasonable criteria in making the final selection to perform a task, including but not limited to vendor availability and cost.

4.4.3. *Contract; performance measures.* Each on-call or as-needed work contract with a pre-qualified vendor shall state an annual, aggregate cap on expenditures paid out to that vendor (a not-to-exceed amount), and be approved in conformance with the approval limits set forth in sec. 82-62(a) of the Purchasing Ordinance. The project owner may then award tasks to a pre-qualified vendor up to the not-to-exceed amount stated in that vendor's contract for that year. The project owner shall be responsible for tracking aggregate amounts paid to on-call or as-needed vendors, and for tracking performance measures for on-call or as-needed work contracts. If applicable, performance measurement requirements must be as set forth in the terms and conditions of the applicable contract template, or into the terms of a purchase order.

4.4.4. *Posting of awards to pre-qualified bidders.* The purchasing manager shall, within five days of an award of a contract of $50,000.00 or more to a pre-qualified bidder, publish the award in the city's selected electronic centralized bid information platform.

4.5 Selection of consultants for CDOT contracts. The selection process for design consultants in projects involving a contract between the city and the Colorado Department of Transportation in which federal aid is utilized shall comply with applicable federal regulations and state statutes.

5. NON-COMPETITIVE SOLICITATION METHODS

5.1. Generally. The Purchasing Ordinance authorizes several types of non-competitive solicitation methods for the purchase or acquisition of goods and services, including sole source contracts, no cost contracts, cooperative contracts, and emergency contracts. Any contract required for such purchase or acquisition shall comply with the Purchasing Ordinance and this policy.

5.2. Sole source contracts. A sole source purchase request shall contain the information set forth in Arvada City Code sec. 82-42(a), outline the need for the proposed good or service, and contain a detailed explanation of the efforts made by the project owner to determine that sole source procurement is in the best interests of the city. The purchasing manager shall create and make available to employees a sole source purchasing form.

5.2.1. *Posting of sole source awards.* The purchasing manager shall, within five days of a sole source award of more than $50,000.00, publish the award in the city's selected electronic centralized bid information platform.

5.3. Cooperative contracts. The city may take advantage of favorable pricing and terms from valid public entity contracts or agreements that provide for access by local governments, including but not limited to those awarded by the federal government, the Colorado State Purchasing Office, and the Multiple Assembly of Procurement Officials ("MAPO"). A cooperative contract may result in lower costs while still ensuring bid requirements are met.

5.3.1. *Membership required.* The city must be a member of the cooperative through which it purchases a good or service. The purchasing manager shall determine whether a valid cooperative exists and whether Arvada is a member of that cooperative.

5.3.2. *Documentation.* Each purchase order or contract for the acquisition of a good or service purchased through a valid cooperative agreement must contain the cooperative name and the agreement number.

6. RESERVED

7. FORMATION OF PURCHASE ORDERS AND CONTRACTS

7.1. Contract formation; purchase order or contract. The city may use any contract appropriate to a procurement which best promotes the interests of the city. This includes a purchase order. The purchasing manager is best situated to determine when it is in the best interests of the city to use a purchase order or a contract to acquire a good or service. The purchasing manager shall consult with Legal as necessary when determining whether a purchase order or a contract is best suited for the procurement.

7.2. Purchase orders. A purchase order is a type of contract containing minimal terms and conditions related to the acquisition of a good or service. A standard purchase order is generally appropriate when an acquisition involves goods (e.g., equipment, materials, or supplies), and when the purchase involves a known quantity of goods to be purchased for a set price. A blanket purchase order is generally appropriate for annual, fixed-dollar purchases where there is uncertainty about the exact amount of goods the city will need to purchase during a given year.

7.2.1. *Contents.* Each purchase order shall contain the requisition date, the item to be purchased, and include the city solicitation number, item number, description, and quantity or amount purchased), account to be charged, cooperative agreement number if applicable, shipping costs if any, and an authorized signature.

7.2.2. *Approval.* All purchase orders of $10,000.00 or more shall be sent to and approved by the purchasing manager before the receipt of goods or services. No invoice may be approved by the purchasing manager prior to the approval of a purchase order.

7.2.3. *After-the-fact purchase orders.* A purchase order received by the purchasing manager after the city has already received the goods or services acquired under that purchase order shall be deemed an after-the-fact purchase order. The purchasing manager shall notify the deputy city manager each time an after-the-fact purchase order occurs.

7.3. Contracts. A contract is generally appropriate when an acquisition requires training by a contractor of city employees by a contractor, the installation of products or equipment by a contractor on or about city facilities, the phased acquisition of goods and services, the execution of a licensing agreement, or a long-term contract. A contract is also appropriate for construction or other activities that carry substantial risks for the city. Legal shall determine what legal provisions are appropriate for each city contract.

7.3.1. *Contract terms.* City contracts shall contain standard contract clauses approved by Legal. Any deviation from a standard contract term must be approved by Legal. All contractors engaged in work for the city must agree to abide by applicable laws, statutes, ordinances, rules, and regulations throughout the term of the contract.

7.3.4. *Submitting a CRF.* If a contract is needed, the contract coordinator shall submit a CRF. No CRF shall be submitted until all relevant contract information is available and in substantially final form. Relevant information includes but is not limited to information that is necessary to draft a contract or that will become a part of the contract, such as the contractor's proposal/quote, scope of work, insurance requirements, sole source form, etc. Failure to submit all relevant contract information may result in project delays.

7.3.5. *Project owner responsibilities.* The project owner responsible for a project for which a contract is required shall:

7.3.5.1. Timely notify the purchasing manager of a bid award;

7.3.5.2. After negotiations have been finalized, ensure the final scope of work has been submitted as part of the CRF;

7.3.5.3. When appropriate, ensure performance measures and reporting procedures have been established and provided with the vendor's response;

7.3.5.4. Attach all relevant documents to the CRF or otherwise make them available to Legal at generally the same time the CRF is submitted: and

7.3.5.5. Upon receipt of a draft contract from Legal, review the contract to ensure it properly captures the scope of work, terms and conditions specific to the project, and other project details, and notify the staff attorney about any suggested revisions and comments.

7.3.6. *Premature work without a contract.* The purchasing manager shall notify the deputy city manager each time a project owner authorizes work for which no contract has been executed or no purchase order has been issued. The notice shall detail the nature of the work and the apparent reason or reasons why the work was started before being approved in accordance with the Purchasing Ordinance.

7.4 <u>Execution of contracts - signatures.</u>

7.4.1. *Electronic signatures.* Subject to any limitations in the Colorado Uniform Electronic Transactions Act, by entering into a contract with the city, a contractor agrees to the use of electronic signatures. Notwithstanding the foregoing, the city may require that any contract be executed with manual signatures.

7.4.2. *Manual signatures.* The following contracts shall be signed with a manual or original signature:

7.4.2.1. Bonds issued to finance a capital improvement project;

7.4.3.2. Deeds;

7.4.3.3. Easements;

7.4.3.4. Development agreements;

7.4.3.5 Annexation agreements;

7.4.3.6. Subordination agreements; and

7.4.3.7. Liens and lien releases.

7.4.3. *Execution of contracts.* The project owner is responsible for ensuring each contract is fully and appropriately executed as set forth in the Purchasing Ordinance, and for ensuring the purchasing program and Legal receives notice that each contract has been fully executed.

8. CONTRACT ADMINISTRATION

8.1. Generally. The director is responsible for ensuring each contractor performs in accordance with purchase order terms or contract requirements. Should an issue involving contract performance or payment, or other contract administration arise, the director should contact the purchasing manager for assistance.

8.2. Contract modifications. All contract amendments or revisions are modifications. All contract modifications must follow the approval authority rules set forth in the Purchasing Ordinance. No additional monetary modification authority may be built into an award prior to the time the need for a modification arises.

9. AMERICANS WITH DISABILITIES (ADA) POLICY. All procurement processes shall comport with the city's ADA Contractors, Licensing, and Certification policy.

CITY OF ARVADA

REPORT TO CITY COUNCIL PUBLIC HEARING	AGENDA ITEM 10.D.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: CB21-028, An Ordinance Submitting Proposed Amendments to Sections 4.3, 4.6, 5.13 and 5.14 of the Charter for the City of Arvada to the Registered Electors at the November 2, 2021 Regular Municipal Election and Setting Ballot Titles (Ordinance No. 4775)

Report in Brief

The purpose of this ordinance is to set titles for four proposed ballot measures making amendments to City Charter Sections 4.3, 4.6, 5.13 and 5.14 of the Charter. The proposed ballot measures would ask Arvada voters to vote on the following amendments to the Charter: 1) whether to delete language in Section 4.3 of the Charter prohibiting an employee of another municipality from being qualified to hold Arvada City Council office; 2) whether to amend Section 4.6 of the Arvada Charter to increase the number of days to fill a City Council vacancy from 30 days to 45 days; 3-4) whether to amend Section 5.13 and 5.14 of the Arvada Charter to increase the number of days to circulate petitions for initiative and referendum from 30 days to 60 days. In order for these questions to be on the ballot in November, the City Council must adopt an ordinance submitting the ballot measures to the voters and setting the language for ballot measures no later than August 16, 2021.

The Arvada team recommends that the City Council approve CB21-028, An Ordinance Submitting Proposed Amendments to Sections 4.3, 4.6, 5.13 and 5.14 of the Charter for the City of Arvada to the Registered Electors at the November 2, 2021 Regular Municipal Election and Setting Ballot Titles, on final reading, numbered 4775 and ordered published by title only.

Financial Impact

None.

Background

Section 13.13 of the Charter requires that a Charter Review Committee be formed every 10 years to review the Charter and recommend to Council amendments, deletions, or other changes to the Charter. In addition, Section 13.9 of the Arvada Charter authorizes City Council to submit any proposed questions to the electors of the City without receipt of a petition. Section 31-2-210 of the Colorado Revised Statutes requires that City Council set ballot titles for any home rule Charter amendments by ordinance.

On January 11, 2021, City Council voted to appoint 21 individuals to the Charter Review Committee. At a workshop on the same date, City Council identified 8 issues for the Charter Review Committee to analyze and follow up with recommendations. The Charter Review Committee met on February 11, 2021, February 25, 2021, March 11, 2021 and March 25, 2021 to discuss proposed revisions to the Charter.

Discussion

The Charter Review Committee presented its report to City Council at a workshop on April 26, 2021, and recommended nine proposed revisions to the Charter. Subsequently, the Charter Review Committee ranked its top recommended revisions. The City team drafted questions to be submitted to the voters which address the Committee’s top recommended revisions, as follows:

1) To delete language in Section 4.3 of the Charter prohibiting an employee of another municipality from being qualified to hold Arvada City Council office;
2) Amending Section 4.6 of the Arvada Charter to increase the number of days to fill a City Council vacancy from 30 days to 45 days;
3-4) Amending Sections 5.13 and 5.14 of the Arvada Charter to increase the number of days to circulate petitions for initiative and referendum from 30 days to 60 days.

To keep the ballot measures understandable for voters, the proposed amendments to Sections 5.13 and 5.14 will each have their own questions on the ballot, creating four total ballot measures.

The remaining five revisions recommended by the Charter Review Committee will be considered for future ballot measures.

Public Contact

Posting of the City Council agenda.

Commission Recommendation

As noted above, the Charter Review Committee recommended all of the proposed Charter amendments, along with five additional Charter amendments.

Strategic Alignment

This action aligns with the City Council Strategic Plan Priority Area of Organizational and Service Effectiveness.

Alternative Courses of Action

NA

Recommendation for Action

The Arvada team recommends that the City Council approve CB21-028, An Ordinance Submitting Proposed Amendments to Sections 4.3, 4.6, 5.13 and 5.14 of the Charter for the City of Arvada to the Registered Electors at the November 2, 2021 Regular Municipal Election and Setting Ballot Titles, on final reading, numbered 4775 and ordered published by title only.

Suggested Motion:

I move that CB21-028, An Ordinance Submitting Proposed Amendments to Sections 4.3, 4.6, 5.13 and 5.14 of the Charter for the City of Arvada to the Registered Electors at the November 2, 2021 Regular Municipal Election and Setting Ballot Titles, be (approved on final reading, numbered 4775 and ordered published by title only) (rejected).

Prepared by:
Rachel Morris, City Attorney

Reviewed by:
Gail Walker, Legal Specialist-Contracts 7/29/2021

Approved by:

Rachel Morris, City Attorney	8/4/2021
Lorie Gillis, Deputy City Manager	8/4/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

COUNCIL BILL NO. 21-028

ORDINANCE NO. 4775

AN ORDINANCE SUBMITTING PROPOSED AMENDMENTS TO SECTIONS 4.3, 4.6, 5.13 AND 5.14 OF THE CHARTER FOR THE CITY OF ARVADA TO THE REGISTERED ELECTORS AT THE NOVEMBER 2, 2021 REGULAR MUNICIPAL ELECTION AND SETTING BALLOT TITLES.

WHEREAS, pursuant to Section 13.13 of the Arvada Charter, City Council appointed a 2021 Charter Review Committee on January 11, 2021 (Resolution No. R21-010) for the purpose of performing a comprehensive review of the City Charter; and

WHEREAS, the 2021 Charter Review Committee completed its review of the City Charter and issued a final report; and

WHEREAS, on April 26, 2021, City Council considered the final report of the Charter Review Committee; and

WHEREAS, Section 13.9 of the City Charter authorizes City Council on its own initiative to submit more than one charter amendment at any one election; and

WHEREAS, City Council has determined that certain City Charter amendment questions shall be placed on the Regular Municipal Election ballot for November 2, 2021.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARVADA, COLORADO:

Section 1. Pursuant to the provisions of CRS Section 31-2-210(4), notice is hereby given to registered electors of the City of Arvada that the following proposed amendments to the Charter of the City of Arvada, Colorado will be submitted to the registered electors at the regular municipal election to be held on Tuesday, November 2, 2021.

Section 4.3 - Qualifications

Each Councilmember when nominated and elected shall be a registered elector of the City of Arvada, a citizen of the United States for at least one (1) year, and,

(a) In the case of Councilmembers elected from districts, shall have resided in the City for one (1) year and the respective district for one (1) year immediately preceding such election, and

(b) In the case of Councilmembers elected at large, shall have resided in the City for one (1) year immediately preceding such election.

In the case of an annexation, any person who has resided within the territory annexed for the prescribed time shall be deemed to have met the residence requirements for the municipality, district and precinct to which the territory was annexed.

In the case of any revision, alteration, or change in district boundaries as a result of the federal enumeration of population as required in Section 4.1.1 of this Charter, any person who is otherwise qualified and is excluded from his or her district as a result of any such district boundary change shall be deemed to have met the one (1) year residency requirement for purposes of qualifying for nomination and election as required in subsection (a) above.

No Councilmember, including the Mayor, shall be a salaried employee of the City of Arvada ~~nor any other municipality~~ during his/her term of office. No former Councilmember, including the Mayor, shall hold any compensated appointed office of employment with the City until one (1) year after expiration of the term for which the member was elected to City Council. No individual shall be eligible to hold the office of City Councilmember, or Mayor, who has been convicted of a felony in any court of the United States within ten (10) years of the date of assuming the office of City Councilmember. The City Council shall be the judge of the election and qualifications of its own members.

Section 4.6. - Vacancies.

An elective office shall become vacant whenever any officer is recalled, dies, becomes incapacitated, resigns, is convicted of a felony, or ceases to be a resident of the City, or, in the case of a Councilmember elected from a district, ceases to be a resident of the respective district from which he or she was elected or appointed. In addition, a Councilmember shall forfeit his/her office upon failing to attend three (3) consecutive regular meetings of the City Council without being excused by the City Council. In case of a vacancy the remaining Councilmembers shall choose by a majority vote, and within ~~thirty (30)~~ FORTY-FIVE (45) days after such vacancy occurs, a person qualified under Section 4.3 of this Charter to fill such vacancy; provided, however, the person chosen as Mayor shall be a member of the City Council. If such vacancy occurs during the first two (2) years of a term, the person appointed by City Council shall serve only until the next regular election, at which time the seat shall be filled by election for the remaining two (2) years of the term. If three (3) or more vacancies exist simultaneously, the remaining Councilmembers shall, at the next regular meeting of City Council, call for a special election to fill such vacancies, provided there will not be a Regular Municipal Election within ninety (90) days.

Section 5.13(b) - Initiative procedures.

(b) An initiated ordinance may be submitted to the City Council by filing with the City Clerk a notice of intent to file a petition for an initiated ordinance. The notice of intent to file an initiative petition shall be signed by not less than five (5) registered electors of the City. The filing of said notice of intent shall be a condition precedent to filing an initiative petition as hereinafter provided. If the initiated ordinance is to be submitted to the registered electors at the next regular municipal election, the petition shall be signed by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. If the initiated ordinance is to be submitted to the registered electors at a special election, the petition shall be signed by the registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date the notice of intent is filed with the City Clerk. The petition must be filed with the City Clerk within ~~thirty (30)~~ SIXTY (60) days the form [from] the date the notice of intent is filed with the City Clerk.

Section 5.14(c) - Referendum procedures.

(c) If a petition calling for a referendum of an ordinance is signed within ~~thirty (30)~~ SIXTY (60) days from the effective date of the ordinance by registered electors of the City in a number at least equal to ten (10) percent of the total number of registered electors of the City as of the date of the filing of the notice of intent and the petition is filed with the City Clerk, the ordinance shall be further suspended from operation. If, however, no such petition is filed with the City Clerk within the ~~thirty (30)~~ SIXTY (60) day period, the ordinance shall be in full force and effect upon the expiration of the ~~thirty (30)~~ SIXTY (60) day period.

NOW, THEREFORE, CITY COUNCIL HEREBY PLACES THE FOLLOWING BALLOT QUESTIONS ON THE NOVEMBER 2, 2021 REGULAR ELECTION BALLOT:

<u>Section 2.</u> Pursuant to the provisions of C.R.S. § 31-2-210(1)(b), there shall be submitted to the registered electors of the City of Arvada at the regular municipal election to be held on Tuesday, November 2, 2021, a proposed amendment to Chapter IV, City Council, Section 4.3, Qualifications, to delete language that prohibits an employee from another municipality from holding public office in Arvada, to read as follows:

QUESTION NO. 1 - AMENDMENT TO THE CHARTER FOR THE CITY OF ARVADA

Shall Chapter IV, Section 4.3, "Qualifications," of the Arvada City Charter concerning qualifications to be a candidate for City Council, be amended by deleting language that prohibits an employee from another municipality from holding public office in Arvada?

☐ YES
☐ NO

Section 3. Pursuant to the provisions of C.R.S. § 31-2-210(1)(b), there shall be submitted to the registered electors of the City of Arvada at the regular municipal election to be held on Tuesday, November 2, 2021, a proposed amendment to Chapter IV, City Council, Section 4.6, Vacancies, to increase the number of days to fill a City Council vacancy from 30 days to 45 days, to read as follows:

QUESTION NO. 2 - AMENDMENT TO THE CHARTER FOR THE CITY OF ARVADA

Shall Chapter IV, Section 4.6, "Vacancies," of the Arvada City Charter concerning procedures for filling vacancies on City Council, be amended by increasing the number of days to fill a City Council vacancy from 30 days to 45 days?

☐ YES
☐ NO

Section 4. Pursuant to the provisions of C.R.S. § 31-2-210(1)(b), there shall be submitted to the registered electors of the City of Arvada at the regular municipal election to be held on Tuesday, November 2, 2021, a proposed amendment to Chapter V, City Council Procedure, Section 5.13, Initiative Procedures, to increase the amount of time permitted to gather signatures for an initiative petition from 30 days 60 days, to read as follows:

QUESTION NO. 3 - AMENDMENT TO THE CHARTER FOR THE CITY OF ARVADA

Shall Chapter V, Section 5.13, "Initiative Procedures," of the Arvada City Charter concerning procedures for submitting initiative petitions, be amended by increasing the amount of time permitted to gather signatures on an initiative petition from 30 days to 60 days?

☐ YES
☐ NO

Section 5. Pursuant to the provisions of C.R.S. § 31-2-210(1)(b), there shall be submitted to the registered electors of the City of Arvada at the regular municipal election to be held on Tuesday, November 2, 2021, a proposed amendment to Chapter V, City Council Procedure, Section 5.14, Referendum Procedures, to increase the amount of time permitted to gather signatures for a referendum petition from 30 days 60 days, to read as follows:

QUESTION NO. 4 - AMENDMENT TO THE CHARTER FOR THE CITY OF ARVADA

Shall Chapter V, Section 5.14, "Referendum Procedures," of the Arvada City Charter concerning procedures for submitting referendum petitions, be amended by increasing the amount of time permitted to gather signatures on a referendum petition from 30 days to 60 days?

☐ YES
☐ NO

Section 6. A judicial determination that any section of this ordinance is illegal, invalid, or void shall not affect the enforceability of any other section or provision.

Section 7. This ordinance shall be effective five days after publication following final passage. The ordinance shall, however, be contingent upon its passage by the electorate as required in C.R.S. § 31-2-210(1)(b).

INTRODUCED, READ, AND ORDERED PUBLISHED this 2nd day of August, 2021.

PASSED, ADOPTED, AND APPROVED this 16th day of August, 2021.

____

Marc Williams, Mayor

ATTEST:

____

City Clerk

APPROVED AS TO FORM:

Rachel A. Morris, City Attorney

By: ________________________________

Publication Dates: August 5, 2021

August 19, 2021

CITY OF ARVADA

REPORT FROM CITY COUNCIL	AGENDA ITEM 12.A.

DATE: August 16, 2021

SUBJECT: Council Committee Reports

Report in Brief

City Council members are appointed to various committees and boards as set out on the attached listing. As meetings are held, individual council members will report back to the full City Council any relevant discussions and issues that occurred.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Enclosure, exhibits & attachments required to support the report

Council Member	Committee
Marc Williams	Arvada Urban Renewal Authority E-470 Authority (alternate) Jefferson Parkway Public Highway Authority Northwest Parkway Authority (Associate Member) (alternate) Urban Drainage and Flood Control District West Connect Coalition *Metro Mayors Caucus
Dot Miller	Adams County Economic Development Association Arvada Municipal Court/Judicial Committee CML Policy Committee Jefferson County Community Corrections Board (alternate) Smart City Advisory Committee
Bob Fifer	Apex Coordinating Committee Arvada Fire Protection District Coordinating Committee Arvada Transportation Committee Denver Regional Council of Governments Jefferson County R-1 Schools Coordinating Committee Jeffco Transportation Action & Advisory Group (JEFFTAAG) Smart City Advisory Committee
Nancy Ford	Arvada Center for the Arts and Humanities Arvada Sustainability Advisory Committee Arvada Visitors Center Committee (alternate) Rocky Flats Stewardship Council
David Jones	E-470 Authority (alternate) Jefferson County Community Corrections Board Jefferson County R-1 Schools Coordinating Committee Jefferson Economic Development Council (JEDC) Jefferson Parkway Public Highway Authority Northwest Parkway Authority (Associate Member) (alternate) West Connect Coalition (alternate)
John Marriott	Adams County Economic Development Association (alternate) Apex Coordinating Committee Arvada Audit Committee Arvada Economic Development Association Board Arvada Municipal Court/Judicial Committee CML Policy Committee Denver Regional Council of Governments (alternate) Jeffco Transportation Action & Advisory Group (JEFFTAAG) (alternate) Olde Town Business Improvement (BID) District Rocky Mountain Metropolitan Airport Community Noise Roundtable
Lauren Simpson	Arvada Audit Committee Arvada Fire Protection District Coordinating Committee Arvada Visitors Center Committee Smart City Advisory Committee

*Asterisked committees are not appointed by Council

CITY OF ARVADA

REPORT TO CITY COUNCIL	AGENDA ITEM 13.A.

TO: THE HONORABLE CITY COUNCIL DATE: August 16, 2021

SUBJECT: Review of Future Workshops and Presentations

Report in Brief

The City Manager's Office maintains a list of upcoming workshops and presentations to be scheduled for City Council meetings. During City Manager Reports, at the end of City Council business meetings, City Manager, Mark Deven, will review with City Council the tentative schedule and make any adjustments necessary.

Prepared by:
Chris Koch, CCO Admin

Reviewed by:

Approved by:

Rachel Morris, City Attorney	7/29/2021
Lorie Gillis, Deputy City Manager	8/3/2021
Mark Deven, City Manager	8/4/2021

Enclosure, exhibits & attachments required to support the report

2021 CITY COUNCIL WORKSHOPS, PRESENTATIONS AND RETREATS (TENTATIVE)

WORKSHOPS	Date	Lead
Pomona Parcel @ Lake Arbor Community Station	Aug 9	VCN
10-year model @ Lake Arbor Community Station	Aug 9	Fin
Bond Project Update	Aug 23	PW
Water Rates	Aug 23	Utilities
LDC Update @ Business Meeting	Sept 13	CED
Budget Presentation	Sept 27	Fin
Pay Plan	Oct 11	Fin
Communications Update	Oct 25	CMO
Bond Project Update	Nov 22	PW
Master Plan Update on Storm and Wastewater	Nov 22	PW
	Dec 13	
CIP Update	TBD	Finance
Council Retreat Update	TBD	CMO
Pomona Parcel	TBD	CMO
Pocket Neighborhoods	TBD	
Meyers Pool	TBD	CMO
City Marketing Plan	TBD	CMO
Traffic Violation Fee	TBD	PW
Financial Scenarios for Street Maintenance Deficit/Options for Increasing Maintenance Funds Engage City Council in a discussion around the current street maintenance needs and how the City might fund them. This will include revenue enhancements, future allocations and expenditure realignments.	TBD	PW/Fin/ CMO
Fiber Master Plan The Fiber Master Plan which is also called Arvada Fiber Optic Network (AFON), was first presented to City Council 4/10/2017. City Councils had set a strategic goal to build a fiber network to enable high speed/real-time connectivity to city facilities and assets in order to enhance city operations. This workshop is intended to brief City Council as to the progress of the AFON build out. Updates are intended to cover conduit installation progress, fiber installation progress, current collocate opportunities, IGA member updates, and connections to current assets (city buildings, traffic, signals, utilities, radio, etc.).	TBD	PW
Community Survey Update The purpose of this item is to continue a discussion with Council about the Community Survey results and what the City team is doing to apply what is learned. Discussion will include an update on action plans targeting key drivers of the City's 5-star rating as well as how Worksystems are targeting specific measures.	TBD	CMO
Problem Properties	TBD	P.D.
Water Storage – Plan B (include with master plan presentation)	TBD	Utilities
Activation of Historical Assets	TBD	VCN
N.W. Arvada	TBD	CED
Body Worn Cameras	TBD	PD
Customer Service Philosophy	TBD	CMO
Ask Arvada Update	TBD	CMO
Diversity and Equity Committee	TBD	CMO
COUNCIL JOINT MEETINGS/DINNERS:		

Denver Water Board Apex Board AURA Board Arvada Center Board–Per Coop Agreement - Annually after October 1 of each year Jefferson Parkway Meeting with Jeffco and Broomfield Council Annual Retreat	May 14	